MT LEGISLATIVE HISTORY

Chapter 368 19 69

Bill H _____ S 323 Original bill & hist. ___C

H. Committee on Const, Elect & Fed. Rel. S. Committee on Const, Elect & Fed. Rl.

Hearing Date(s)	___C	Hearing Date(s)	___C
2-10	___C	1/27	___C
2-12	___C	3/4	___C
_____	___C	_____	___C
_____	___C	_____	___C
Date Out _____	___C	_____	___C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

1-27-69

chairman reported that the sub-committee felt there was no conflict between the two bills. Senator McDonald motioned that Senate Bill 297 "Do Pass" which motion was seconded by Senator Anderson, put to a vote and it carried.

Senate Bills 170 and 230 had also been placed in sub-committee for consideration. After a report from the sub-committee that neither bill neutralized the other bill, Senator Sheehy made a motion that Senate Bill 230 "Do Pass". This motion was seconded by Senator Keenan, put to a vote and carried.

Senate Joint Resolution 1 was placed before the committee members for their consideration, but no action was taken at this time.

Senate Bill 325 was presented to the Committee for action. Senator McDonald stated that the legislative council would like to appear on the bill and SEnator McKeon assigned a sub-committee composed of Senator Keenan, chairman, Senator McDonald and Senator Rosell and SEnator Moore to study this bill. The sub-committee was advised to meet with Don Sorte of the Legislative Council as he had done extensive study on the bill and could give the committee the background on this bill.

Senator McKeon motioned that the committee adjourn which motion was seconded by Senator Sheehy, put to a vote and it carried.

CHAIRMAN McKEON

February 4, 1969

Senate Bill 323 - Revision of the Election Laws - Introduced by Senator Dzivi.

Since there are only eleven days to get out printing, Senator McKeon, Chairman of the Committee on Constitutions, Elections and Federal Relations, made a written motion that Senate Bill 323 "Do Pass". This motion was put to a vote of all the committee members and carried unanimously.

CHAIRMAN McKEON

ascribe to an oath contained in Section 75-3805.

Mr. Floyd Markel of the Montana Education Association, appeared in support of this bill. He felt that there was no problem with the intent , but that the problems are with the mechanics that have come about through this law. It now takes sixty days to fulfill the requirement due to registration, stated Mr. Markel, and we must revert to the general election laws. I strongly urge you to support House Bill 356, he stated.

James Kenny, secretary of Montana School Board Association, also appeared as a proponent of House Bill 356.

Representative McGrath appeared in support of House Bill 257. It was his opinion that the electors should vote for governor and lieutenant governor of the same party as the objects of the governor's office should be upheld in the event that there is a reason for the lieutenant governor to take over. He informed the committee that the State of New York has this policy as well as seventeen other states. Senator McKeon requested Representative McGrath to submit a copy of the roll call vote of the House on this measure.

Senate Bill 323 was explained by Senator Dzivi. He felt that this measure would straighten out any inconsistencies and problems in the election laws. Don Sorte of the Legislative Council explained that this bill provided for minor changes in the election laws and he went through the various sections of the bill, pointing out the changes to the committee members.

Frank Murray, Secretary of State, informed the committee that he had sent a copy of this bill to all clerk and recorders of all counties in Montana and he praised the people working on this measure. He told the committee that the bill was drafted with the intention in mind that it would be a service to the voters and not to play up to the whims of the clerk and recorders, although this bill would be beneficial to them also. He further felt that this bill required a fiscal note as it would be necessary to publish 15,000 copies to send to all precincts and to each candidate on a county and state level. $20,000 was the estimated cost for this printing, etc; $4,000 would be required for court annotation and costs for forms, supplies and salaries. This would amount to a total sum of $24,000.

The Secretary of State did call attention to certain sections of this bill and he felt it was an honor to list the name of the presidential elector and stated he would like to see this provision retained. He felt that Section 164, Page 86 of the bill must be reworded to conform to Senate Bill 184 which concerned voting devices.

Mr. Leonard Larson of the Secretary of State's office stated that there was nothing technically incorrect with Senate Bill 323 and called attention to the section providing for presidential electors and balloting for president and vice-president.

Senator Rosell asked the Secretary of State what his opinion was regarding vouchers and Frank Murray replied that he felt vouchers were a nuisance to the candidates and the office also and that Senate Bill 323 did not provide for vouchers to be filed. Senator McKeon wondered if the law would be changed relative to independent filing and Mr. Sorte replied that Senate Bill 323 would not change independent filing. All testifiers were then dismissed from the committee room.

The committee did discuss the provision relating to electors for the president, but nothing was done at this time. Amendments were proposed by the committee members and Senator Sheehy moved that these amendments be adopted. This motion was seconded by Senators Cochrane and Keenan, put to a vote of the committee and carried.

There being no further business before the committee, it was unanimously agreed that the committee adjourn.

CHAIRMAN McKEON

2-12-69

House Joint Resolution No. 4 was explained to the committee members by Representative Johnston. This resolution requests that the fight site of Meriwether Lewis and his men with Blackfeet Indians on the bank of the Two Medicine River on the Blackfeet Indian Reservation of the State of Montana and the surrounding area be designated as both a historical landmark and national monument. Representative Johnston felt that this episode was the most serious threat to the successful accomplishment of the Lewis and Clark expedition and since this area is wild and scenic, and the only place where death resulted, the importance of this encounter should be designated as a historical area which should be preserved for future generations. Representative Johnston was then dismissed from the committee hearing.

Senate Resolution No. 5 was discussed. This measure requests congress to enact legislation to reinstate the "silver" dollar as a minted coin. Senator Anderson moved that this resolution "Do Pass". His motion was seconded by Senator Rosell, put to a vote and carried.

Senate Resolution No. 4 was considered by the Committee. This measure asked that congress change the wholesome meat act before its effective date on July 1, 1969. The committee amended this measure on the recommendation of Senator McDonald. Senator Keenan motioned that Senate Resolution No. 4 "Do Pass" as amended. Said motion was seconded by Senator Anderson, put to a vote of the committee and it carried.

Senate Bill 323 which had been previously considered by this committee on February 10, 1969, and amended by the committee, was once again considered. Due to lack of time however in getting the bill engrossed with amendments, the committee agreed to pass this bill without amendments and submit the amendments to the House Committee for their consideration. Senator Keenan moved that this bill "Do Pass". This motion was seconded by Senator Sheehy, put to a vote of the committee and carried unanimously.

House Bill 151 was placed before the committee for their consideration. After a discussion of the bill, Senator Sheehy moved that this measure "Do Not Pass". Senator MacDonald seconded the motion, it was put to a vote of the committee and it carried.

The Committee then discussed all measures dealing with constitutional amendments and gave their preference as to what measures they preferred to appear on the ballot to be submitted to the electors at the next election.

House Joint Resolution No. 4 was given the consideration of the Committee members. Testimony had been heard on this measure this day. Senator Rosell motioned that this measure

FEBRUARY 17, 1969
PROCEEDINGS OF THE
CONSTITUTION, ELECTIONS AND FEDERAL RELATIONS COMMITTEE

Vice Chairman Al C. Newby called the meeting to order at 11:45 a.m. The secretary called the roll, 9 members present, Committeemen Haines, Forester, Lee, Lombardi, Romney, Spahr, Williams and Zimmer were absent.

SENATE BILL 323: In the absence of the Chief Sponsor, Senator Dzivi, the bill was presented by Mr. Don Sorte of the Legislative Council. This is a recodification of the election laws, elimnating 100 sections of the statutes. Major change is that a convention method of nominating candidates has been eliminated. Some of the changes suggested by the County Clerk and Recorders have been incorporated when they were compatible with the ease of the voter in voting.

Secretary of State Frank Murray appeared to answer any questions the committee might have.

Senator McKeon and Senator Moore spoke on the bill. They have amendments that could not be incorporated in the Senate without a lot of work in enrolling at the last minute. These would be in regard to taking off the names of electors as this might be in conflict with Federal laws. They also have amendments which would take out conflicts with legislation already passed this session.

Mr. Jim Screnor also appeared to answer questions. He represented the Montana Legislative Council.

SENATE BILL 184: Senator McKeon, Chief Sponsor, said this would set up a board on election devices which would be comprised of the chief election officer of the State and chief election officer of the county, the County Clerk and Recorder and the State Auditor.

Mr. Dave Jackson of the Montana Citizens Committee on Voting Devices appeared in behalf of the bill.

It was explained that at this time computer systems are not fool proof and there were instances of ballots being shredded. These machines do not properly deal with over-voting.

Secretary of State Frank Murray talked at length on this subject. He said they operate when punched properly, but that an inexperienced person does not punch them properly. He feels we must safeguard the intent of the voter and this is not done when a judge is allowed to repunch a ballot as was done when over-voting occurred. It requires a lot of voter education to use these machines correctly. On a paper ballot the judges just throw out the particular office involved in over-voting and do not count any of the votes cast on that ballot for the particular office involved.

1109 through 23-1117, 23-1201 through 23-1228, 23-1301, 23-1302(1), 23-1302(2), 23-1303, 23-1303.1, 23-1304 through 23-1321, 23-1401 through 23-1406, 23-1501 through 23-1503, 23-1601 through 23-1608, 23-1608A, 23-1609 through 23-1618, 23-1701 through 23-1715, 23-1801 through 23-1808, 23-1812 through 23-1819, 23-1901 through 23-1904, 23-2001 through 23-2012, 23-2014, 23-2101 through 23-2111, 23-2201 through 23-2206, 23-2301 through 23-2323, 23-2401 through 23-2411, and 23-2501 through 23-2507, R.C.M. 1947 are repealed.

February 24, 1969
PROCEEDINGS OF THE
CONSTITUTION, ELECTIONS AND FEDERAL RELATIONS COMMITTEE

Vice Chairman, Al C. Newby called the meeting to order at 10:30 a.m. The secretary called the roll, 11 members present, Committeemen Haines, Goan, Lee, Lombardi, Spahr, and Williams absent.

We continued to work on the amendments to Senate Bill 323.

Mr. Romney moved to strike the amendment to Sections 11, 12, 14, and 167; motion carried.

Mr. Hemstad moved to amend page 7, line 4 of the printed bill be inserting after the word "county" the words and parentheses (if such therebe); motion carried.

Mr. Romney moved to amend Section 14, after the word county, by inserting the words "if a newspaper is published therein, otherwise in a newspaper of general circulation therein", this being page 7, line 3; motion carried.

Mr. Rygg moved to amend by inserting the language of H.B. 346; motion carried.

Mr. Romney moved to include a provision for requesting paper ballots in lieu of voting machines; motion carried. Mr. Jim Screnar of the Legislative Council will draw the amendment.

Mr. Hemstad moved SENATE BILL 323 as amended be concurred in; motion carried. BE CONCURRED IN.

Mr. Spahr being absent, it was decided to delay action on Senate Bill 170. Mr. Rygg moved to pass consideration for the day.

SENATE JOINT RESOLUTION 15

Mr. Zimmer moved this bill be concurred in; motion carried. BE CONCURRED IN.

The meeting was adjourned at 11:45 a.m.

Al C. Newby

AL C. NEWBY, VICE CHAIRMAN

Marie Haniuk

Marie Haniuk, Secretary

We, your committee on.....

having had under consideration..... Bill No.....

Section 54, XXXX subsection (1), page 25, line 22 of the original bill, by omitting after the word, "of", the word, "instructions", and XX inserting in lieu thereof the word: "instruction"

Section 77, subsection (2), page 43, line 15 of the original bill, by inserting after the word,"act", the XXXXX XX words; "or acts", XXXXXX and on page 43, line 15 of the original bill by omitting after the word and punctuation, "unlawful, " the words; "or acts"

Section96, subsection (a), page 53, line 28 of the original bill, by omitting after the word, "be", the word; "in"

Section 18, subsection (2), page 8, line 6 of the printed bill, by inserting after the word "establish" the punctuation "," and adding the following words "XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX and punctuation "following each decennial census,"

Section 29, subsection (8), page 12, line 21 by deleting the word "registry" and inserting in lieu thereof the word "register"/

Respectfully report as follows: That..... Bill No.....

Section 29, subsection (3), page 12, line 22, by deleting the word "registry" and inserting in lieu thereof the word "register".

Section XXXXXXXXXXXXXXXX 32, subsection (3), page 14, line 14 of the printed bill by deleting the word "may" and inserting in lieu thereof the word "shall"

Section 33, subsection XXXXXXX (1)XXXXXXXXXXXXX (c) by deleting it in its entirety AND further amend that the present subsections (1) (d), (1)(e), and (1)(f) be relettered XXXXX (c), (d), and (e).

Section 34 following subsection (1)(c) the following new material "(d) notify the elector by registered United States Mail that his qualifications as an elector have been challenged."

Section 63, subsection (4)(a), XXXXX page XX 33, line 10 of the printed bill by deleting the word "marked" and inserting after the words "ballot" the following words "of his choice"

Section XXXX 63, subsection (4)(a), page 33, line 12 by deleting after the word box the punctuation ";" and insert after the word "box" the following wordsXXX and punctuation "and deposit his ballot in the box marked for XXXX that purpose;"

Section 96, subsection (1) (a), page 53, line 28 of the printed bill, by deleting the word "in"

Section 186, subsection (3), page 59, line 18, delete after the XXXXXX letter "g" the following words and punctuation "in the square

Chairman.

Revised 1968

FORM 19

ADOPTED

Journal

MR. .....:

We, your committee on.....

having had under consideration..... Bill No.....

of the original printed bill,

Section 106, subsection (3), page 59, line 18, delete after the letter "X" the following words and punctuation "in the square before the amendment or question." and insert in lieu thereof the following material "in the square indicating his vote for or in the square indicating his vote against the amendment or question."

Section 143, subsection (2), page 77, line 12 of the printed bill by deleting the word "not".

Section 146, subsection (3), page 79, lines 8 through 11 of the printed bill by deleting the section in its entirety.

Section 166, subsection (1), page 87, line 8, of the printed bill by inserting after the word and punctuation "elections," the following material "after approval as provided by law,".

Section 166, subsection (4), page 87, line 26 of the printed bill, by inserting after the word and punctuation "may," the following material "after approval as provided by law,".

Section 167, subsection (6), page 89, line 22 of the printed bill by deleting the word "published" and inserting in lieu thereof the following words "of general circulation".

Section 169, subsection (1), page 92, line 5, of the printed bill, by deleting the words "may adopt" and insert after the word "state" the following words and punctuation ", state auditor, and president of the Montana county clerk and recorders association shall constitute a board of election devices, which shall promulgate".

Section 169, subsection (1), page 92, lines 14 through 16 of the printed bill deleted all of the material following the word "systems" and insert in lieu thereof the punctuation "." after the word "systems".

Section 215, subsection (3), page 111, line 20 of the printed bill, by deleting the word "not".

DO PASS

.....
Chairman.

Committee Report form
Revised 1968

FORM 19

PRESIDENT

(Walker

We, your committee on CONSTITUTIONS, ELECTIONS & FEDERAL RELATIONS

having had under consideration SENATE Bill No. 323

A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE CODIFICATION AND GENERAL REVISION OF THE LAWS RELATING TO THE ELECTION LAWS OF THE STATE OF MONTANA; REPEALING SECTIONS 23-101 through 23-106, 23-201 through 23-202, 23-301 through 23-311, 23-401 through 23-407, 23-501, 23-501.1, 23-502 through 23-534, 23-601 through 23-604, 23-604.1, 23-604.2, 23-605 through 23-612, 23-701 through 23-713, 23-801 through 23-820, 23-901 through 23-929, 23-931, 23-933 through 23-936, 23-1001, 23-1008 through 23-1009, 23-1101 through 23-1107, 23-1109 through 23-1117, 23-1201 through 23-1228, 23-1301, 23-1302 (1), 23-1302 (2), 23-1303, 23-1303.1, 23-1304 through 23-1321, 23-1401 through 23-1406, 23-1501 through 23-1503, 23-1601 through 23-1608, 23-1608A, 23-1609 through 23-1618, 23-1701 through 23-1715, 23-1801 through 23-1808, 23-1812 through 23-1819, 23-1901 through 23-1904, 23-2001 through 23-2012, 23-2014, 23-2101 through 23-2111, 23-2201 through 23-2206, 23-2301 through 23-2323, 23-2401 through 23-2411 23-2501 through 23-507, R.C.M. 1947. "

Respectfully report as follows: That SENATE Bill No. 323

BE AMENDED AS FOLLOWS:

Section 166, page 87, line 7 of the original bill, by inserting after the word "systems", the words and punctuation; " , after approval as provided by law, "

Section 166, page 87, line 26 of the original bill, by inserting after the word "may", the words and punctuation: " , after approval as provided by law, "

(1) Section 11, page 6, line 11 of the original bill, by inserting after the word "newspaper", the words: " of general circulation"

(2) Section 12, page 6, line 19 of the original bill, by inserting after the word "newspaper", the words: "of general circulation " and further [illegible] on page 6, line 19 of the original bill, by omitting the word, "in", and inserting in lieu thereof, [illegible] the word: "within"

(3) Section 14, page 7, line 12 of the original bill, [illegible] by omitting after the word, "newspaper", the words : "published in", and inserting in lieu thereof the words: "of general circulation within".

[illegible]

(1) Section 35, sub-section (c), page 16, line 23 of the original bill, by omitting after the word, "The", the word, "published" , and inserting in lieu thereof the word: "posted"

Committee Report form
Revised 1968

FORM 19

..... Chairman.

Mr. Your committee on CONSTITUTIONS, ELECTIONS & FEDERAL RELATIONS

having had under consideration SENATE Bill No 323

A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE CODIFICATION AND GENERAL REVISION OF THE LAWS RELATING TO THE ELECTION LAWS OF THE STATE OF MONTANA; REPEALING SECTIONS 23-101 THROUGH 23-106, 23-201 THROUGH 23-202, 23-301 THROUGH 23-311, 23-401 THROUGH 23-407, 23-501, 23-501.1, 23-502 THROUGH 23-534, 23-601 THROUGH 23-604, 23-604.1, 23-604.2, 23-605 THROUGH 23-612, 23-701 THROUGH 23-713, 23-801 THROUGH 23-820, 23-901 THROUGH 23-929, 23-931, 23-933 THROUGH 23-936, 23-1001, 23-1008 THROUGH 23-1009, 23-1101 THROUGH 23-1107, 23-1109 THROUGH 23-1117, 23-1201 THROUGH 23-1228, 23-1301, 23-1302(1), 23-1302(2), 23-1303, 23-1303.1, 23-1304 THROUGH 23-1321, 23-1401 THROUGH 23-1406, 23-1501 THROUGH 23-1503, 23-1601 THROUGH 23-1608, 23-1608A, 23-1609 THROUGH 23-1618, 23-1701 THROUGH 23-1715, 23-1801 THROUGH 23-1808, 23-1812 THROUGH 23-1819, 23-1901 THROUGH 23-1904, 23-2001 THROUGH 23-2012, 23-2014, 23-2101 THROUGH 23-2111, 23-2201 THROUGH 23-2206, 23-2301 THROUGH 23-2323, 23-2401 THROUGH 23-2411, 23-2501 THROUGH 23-2507, R.C.M. 1947."

Sec 11, pg 7 ln 12 of original bill, being sec 11, pg 7 ln 3 of the printed bill, after the word "County" insert the words & punctuation "if a newspaper is published therein, otherwise in a newspaper of general circulation therein,"

Respectfully report as follows: That SENATE Bill No. 323

Be amended as follows:

by amending section 11, page 6, line 11 of the original bill, being section 11, page 6, line 3 of the printed bill, after the word "news paper" by inserting the words "of general circulation"

and further amend section 12, subsection (1), page 6, line 19 of the original bill, being section 12, subsection (1), page 7, line 4 of the printed bill, after the word "newspaper" by striking the word "published in" inserting in lieu thereof the words "of general circulation within" inserting the comma and parenthesis "(if any there is),"

and further amend section 14, page 7, line 12 of the original bill, being section 14, page 7, line 3 of the printed bill, after the word "newspaper" by striking the words "published in" and inserting in lieu thereof the words "of general circulation within"

and further amend section 29, subsection (3), page 12, line 21 of the original bill, being section 29, subsection (3), page 13, line 9 of the printed bill, by striking the word "registry" and inserting in lieu thereof the word "register"

and further amend section 29, subsection (3), page 12, line 22 of the original bill, being section 29, subsection (3), page 13, line 10 of the printed bill, by striking the word "registry" and inserting in lieu thereof the word "register"

and further amend section 34, subsection (1), following article (c), page 15, line 24 of the original bill, being section 34, subsection (1),

Committee Report form
Revised 1968

Chairman.

FORM 19

... the following (words, figures, punctuation, underlining)

...ing in lieu thereof the following (words, figures, punctuation, underlining

and further amend section 169, page 92, line 5 through 30 and page 93, line 1 through 3 of the original bill, being section 169, page 91, line 1 through 4 and page 92, lines 5 through 25 of the printed bill, by striking the material therein in its entirety, after the words and figures "Section 169." and inserting in lieu thereof the following material:

"Section 1. Rules and regulations--specifications for devices and equipment. (a) The secretary of state, state auditor and president of the Montana county clerk and recorders association shall constitute a board of election devices, which shall promulgate rules for the administration of this section, and shall approve the marking devices and automatic tablulating equipment used in electronic voting systems.

(b) No marking device or automatic tablulating equipment shall be approved unless it fulfills the following requirements:

(1) It shall permit and require voting in absolute secrecy.

(2) It shall permit each elector to vote at any election for all persons and offices for whom and for which he is lawfully entitled to vote, and no others; to vote for as many persons for an office as he is entitled to vote for; to vote for or against any question upon which he is entitled to vote; and to vote, where applicable, for all candidates of one (1) party or to vote a split ticket as he desires.

(3) It shall permit each elector, at presidential elections, by one (1) punch or mark to vote for the candidates of that party for presidential elector as a group.

(4) It shall comply with all other requirements of the election laws so far as they are applicable.

(5) No electronic voting system presently in use by any county, city or town in Montana shall be disapproved for use in such county, city or town by the board, except upon application by the governing body of said county, city or town."

and further amend section 186, page 99, line 12 of the original bill, being section 186, page 98, line 1 of the printed bill, after the word "Within", by striking the word and figures "~~thirty-(30)~~" and inserting in lieu thereof the word and figures "twenty (20)".

AND AS SO AMENDED,

BE CONCURRED IN.

Revised 1968
FORM 22

EXAMPLE

I move to amend Section ....., Sub-Section ....., page ....., line ..... of the original bill, being Section ....., page ....., line ..... of the printed bill, by (deleting or striking) the following (words, figures, punctuation, underlining) "....." and inserting in lieu thereof the following (words, figures, punctuation, underlining "....."

following article (c), page 16, line 8 of the printed bill, by adding the following new material "(d) notify the elector within five (5) days by registered United States Mail that his qualifications as an elector have been challenged."

and further amend section 54, subsection (1), page 25, line 22 of the original bill, being section 54, subsection (1), page 26, line 2 of the printed bill, after the word "of" be striking the word "~~instructions~~" and inserting in lieu thereof the word "instruction"

and further amend section 77, subsection (2), page 43, line 15 of the original bill, being section 77, subsection (2), page 43, line 10 of the printed bill, after the word "act" by adding the words "or acts"

and further amend section 77, subsection (2), page 43, line 15 of the original bill, being section 77, subsection (2), page 43, line 11 of the printed bill, after the word "unlawful" by striking the ~~punctuation~~ punctuation and words "~~,-or-acts~~"

and further amend section 96, subsection (1), article (a), page 53, line 28 of the original bill, being section 96, subsection (1), article (a), page 54, line 6 of the printed bill, after the word "be" be striking the word "~~in~~"

and further amend section 106, subsection (3), page 59, lines 18 and 19 of the original bill, being section 106, subsection (3), page 59, line 8 of the printed bill, after the letter and punctuation ""X"" by striking the following material "~~in-the-square-before-the amendment-or-question.~~" and inserting in lieu thereof the following material "in the applicable square indicating his vote either for or against the amendment or question."

and further amend section 143, subsection (2), page 77, line 8 of the original bill, being section 143, subsection (2), page 77, line 12 of the printed bill, after the word "shall" by striking the word "not"

and further amend section 146, subsection (3), page 79, lines 8 through 13 of the original bill, being section 146, subsection (3), [illegible] striking the

...ing article (c), page 16, line 8 of the printed bill, by ...ding the following new material "(d) notify the elector with... five (5) days by registered United States Mail that his qualifications as an elector have been challenged."

and further amend section 54, subsection (1), page 25, line 22 of the original bill, being section 54, subsection (1), page 26, line 2 of the printed bill, after the word "of" be striking the word "instructions" and inserting in lieu thereof the word "instruction"

and further amend section 77, subsection (2), page 43, line 15 of the original bill, being section 77, subsection (2), page 43, line 10 of the printed bill, after the word "act" by adding the words "or acts"

and further amend section 77, subsection (2), page 43, line 15 of the original bill, being section 77, subsection (2), page 43, line 11 of the printed bill, after the word "unlawful" by striking the punctuation and words ",-or-acts"

and further amend section 96, subsection (1), article (a), page 53, line 28 of the original bill, being section 96, subsection (1), article (a), page 54, line 6 of the printed bill, after the word "be" be striking the word "in"

and further amend section 106, subsection (3), page 59, lines 18 and 19 of the original bill, being section 106, subsection (3), page 59, line 8 of the printed bill, after the letter and punctuation ""X"" by striking the following material "in-the-square-before-the amendment-or-question," and inserting in lieu thereof the following material "in the applicable square indicating his vote either for or against the amendment or question."

and further amend section 143, subsection (2), page 77, line 8 of the original bill, being section 143, subsection (2), page 77, line 12 of the printed bill, after the word "shall" by striking the word "not"

and further amend section 146, subsection (3), page 79, lines 8 through 13 of the original bill, being section 146, subsection (3), page 79, lines 7 through 11 of the printed bill, by striking the subsection in its entirety

and further amend section 166, subsection (1), page 87, line 8 of the original bill, being section 166, subsection (1), page 87, line 2 of the printed bill, after the word and punctuation "elections," by adding the following material "after approval as provided by law,"

and further amend section 166, subsection (4), page 87, line 26 of the original bill, being section 166, subsection (4), page 87, line 18 of the printed bill, after the word "may" by adding the punctuation and words ", after approval as provided by law,"

and further amend section 167, subsection (6), page 87, line 22 of the original bill, being section 167, subsection (6), page 87, line 44 of the printed bill, after the word "officers", by striking the words "instructed-to" and inserting in lieu thereof the

DO PASS
DO NOT PASS
BE CONCURRED IN
BE NOT CONCURRED IN
BE ADOPTED
BE NOT ADOPTED

STANDING COMMITTEE REPORT

February 24, 19 69

Journal

MR. SPEAKER:

We, your committee on CONSTITUTIONS, ELECTIONS AND FEDERAL RELATIONS

having had under consideration Senate Bill No. 323

A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE CODIFICATION AND GENERAL REVISION OF THE LAWS RELATING TO THE ELECTION LAWS OF THE STATE OF MONTANA; REPEALING SECTIONS 23-101 through 23-106, 23-201 through 23-202, 23-301 through 23-311, 23-401 through 23-407, 23-501, 23-501.1, 23-502 through 23-534, 23-601 through 23-604, 23-604.1, 23-604.2, 23-605 through 23-612, 23-701 through 23-713, 23-801 through 23-820, 23-901 through 23-929, 23-931, 23-933 through 23-936, 23-1001, 23-1008 through 23-1009, 23-1101 through 23-1107, 23-1109 through 23-1117, 23-1201 through 23-1228, 23-1301, 23-1302(1), 23-1302(2), 23-1303, 23-1303.1, 23-1304 through 23-1321, 23-1401 through 23-1406, 23-1501 through 23-1503, 23-1601 through 23-1608, 23-1608A, 23-1609 through 23-1618, 23-1701 through 23-1715, 23-1801 through 23-1808, 23-1812 through 23-1819, 23-1901 through 23-1904, 23-2001 through 23-2012, 23-2014, 23-2101 through 23-2111, 23-2201 through 23-2206, 23-2301 through 23-2323, 23-2401 through 23-2411, 23-2501 through 23-2507, R.C.M. 1947."

Respectfully report as follows: That Senate Bill No. 323

be amended as follows:

1. Amend section 49, page 24, following line 7, of the original bill, being section 49, following line 23, page 24 of the printed bill by adding a new subsection which reads as follows:

"(b) The board of county commissioners may appoint additional counting boards of election judges and clerks whose duties are to tabulate absentee ballots cast for the individual candidates and issues on the ballot."

2. Further amend section 129, line 6, page 69 of the original bill, being section 129, line 1, subsection 1, page 69 of the printed bill following the number "(1)" by inserting the following: "[illegible] section 127 of this act,".

... your committee on CONSTITUTIONS, ELECTIONS AND FEDERAL REL...

having had under consideration Senate Bill No. 323

A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE CODIFICATION AND GENERAL REVISION OF THE LAWS RELATING TO THE ELECTION LAWS OF THE STATE OF MONTANA; REPEALING SECTIONS 23-101 through 23-106, 23-201 through 23-202, 23-301 through 23-311, 23-401 through 23-407, 23-501, 23-501.1, 23-502 through 23-534, 23-601 through 23-604, 23-604.1, 23-604.2, 23-605 through 23-612, 23-701 through 23-713, 23-801 through 23-820, 23-901 through 23-929, 23-931, 23-933 through 23-936, 23-1001, 23-1008 through 23-1009, 23-1101 through 23-1107, 23-1109 through 23-1117, 23-1201 through 23-1228, 23-1301, 23-1302(1), 23-1302(2), 23-1303, 23-1303.1, 23-1304 through 23-1321, 23-1401 through 23-1406, 23-1501 through 23-1503, 23-1601 through 23-1608, 23-1608A, 23-1609 through 23-1618, 23-1701 through 23-1715, 23-1801 through 23-1808, 23-1812 through 23-1819, 23-1901 through 23-1904, 23-2001 through 23-2012, 23-2014, 23-2101 through 23-2111, 23-2201 through 23-2206, 23-2301 through 23-2323, 23-2401 through 23-2411, 23-2501 through 23-2507, R.C.M. 1947."

Respectfully report as follows: That Senate Bill No. 323

be amended as follows:

1. Amend section 49, page 24, following line 7, of the original bill, being section 49, following line 23, page 24 of the printed bill by adding a new subsection which reads as follows:

"(b) The board of county commissioners may appoint additional counting boards of election judges and clerks whose duties are to tabulate absentee ballots cast for the individual candidates and issues on the ballot."

2. Further amend section 129, line 6, page 69 of the original bill, being section 129, line 1, subsection 1, page 69 of the printed bill following the number "(1)" by inserting the following: "Except as provided in section 127 of this act,".

3. Further amend page 68 following line 2 of the original bill, being page 68 following line 7 of section 126 of the printed bill by adding a new section which reads as follows:

DO PASS

"Section 127. (1) the board of county commissioners may appoint additional election boards who shall tabulate, in the manner provided by law, absentee ballots by precinct cast for the individual candidates and issues on the ballot. The board shall certify the results to the registrar.

(2) The election judges and clerks of the additional counting board shall take the same instructions and oaths other judges and clerks are required to take.

Committee Report form
Revised 1968

FORM 19

.....
Chairman.

☐ DO PASS
☐ DO NOT PASS
☐ BE CONCURRED IN
☐ BE NOT CONCURRED IN
☐ BE ADOPTED
☐ BE NOT ADOPTED

STANDING COMMITTEE REPORT

..... 19.....

Journal

MR. .....:

We, your committee on.....

having had under consideration..... Bill No.....

(3) There shall be no more than a majority of election judges represented by one political party.

(4) The counting of absentee ballots shall commence on the day of election at a time and place designated by the commissioners. The counting shall not be open to the public and this board shall be dismissed no earlier than the time of closing of the polls.

(5) The judges shall reject any ballot on hand if the name of the voter is not listed on the "CERTIFICATES AND RECORD OF ABSENTEE VOTERS" furnished by the registrar.

(6) The counting board shall also meet at 8 a.m. on the day following election day to transfer the totals of the absentee ballots from their return sheets to the totals on the final return sheets compiled at the polls.

(7) The city clerk and school district clerk shall perform all duties prescribed for the registrar in this section. However, the commissioners shall appoint the members of the auxiliary counting board only."

[redacted]

4. Further amend Senate Bill 323 by renumbering all of the sections following the amendment which creates a new section 127 in this act.

Prepared by Legislative Council

AND, AS AMENDED,

DO PASS

☐ DO PASS
☐ DO NOT PASS
☐ BE CONCURRED IN
☐ BE NOT CONCURRED IN
☐ BE ADOPTED
☐ BE NOT ADOPTED

STANDING COMMITTEE REPORT

February 24 19 69

Journal

MR. SPEAKER:

We, your committee on CONSTITUTIONS, ELECTIONS AND FEDERAL RELATIONS

having had under consideration SENATE Bill No. 323

A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE CODIFICATION AND GENERAL REVISION OF THE LAWS RELATING TO THE ELECTION LAWS OF THE STATE OF MONTANA; REPEALING SECTIONS 23-101 through 23-106, 23-201 through 23-202, 23-301 through 23-311, 23-401 through 23-407, 23-501, 23-501.1, 23-502 through 23-534, 23-601 through 23-604, 23-604.1, 23-604.2, 23-605 through 23-612, 23-701 through 23-713, 23-801 through 23-820, 23-901 through 23-929, 23-931, 23-933 through 23-936, 23-1001, 23-1008 through 23-1009, 23-1101 through 23-1107, 23-1109 through 23-1117, 23-1201 through 23-1228, 23-1301, 23-1302(1), 23-1302(2), 23-1303, 23-1303.1, 23-1304 through 23-1321, 23-1401 through 23-1406, 23-1501 through 23-1503, 23-1601 through 23-1608, 23-1608A, 23-1609 through 23-1618, 23-1701 through 23-1715, 23-1801 through 23-1808, 23-1812 through 23-1819, 23-1901 through 23-1904, 23-2001 through 23-2012, 23-2014, 23-2101 through 23-2111, 23-2201 through 23-2206, 23-2301 through 23-2323, 23-2401 through 23-2411, 23-2501 through 23-2507, R.C.M. 1947."

Respectfully report as follows: That SENATE Bill No. 323

be amended as follows:

1. Amend section 159, line 1, page 85 of the original bill, being section 159, line 1, page 84 of the printed bill following the number and punctuation "159" by inserting the following number "(1)".

2. Further amend section 159, page 85, following line 5, being section 159, page 84 following line 5 by adding a new subsection which reads as follows:

"(2). Where voting machines are used, an elector may request to vote by paper ballot instead of using the voting machines. The election judges shall provide the elector with a paper ballot when requested. Paper ballots shall be cast and counted by the election judges in the manner provided by law."

3. Further amend section 166, page 88, following line 3, being section 166, page 87, following line 24 of the printed bill by adding a new subsection which reads as follows:

DO PASS

"(5) In precincts where an electronic voting system is used, an elector may request a paper ballot to cast his vote and the election judge shall supply the elector with the paper ballot when so requested. These

A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE CODIFICATION AND GENERAL REVISION OF THE LAWS RELATING TO THE ELECTION LAWS OF THE STATE OF MONTANA; REPEALING SECTIONS 23-101 through 23-106, 23-201 through 23-202, 23-301 through 23-311, 23-401 through 23-407, 23-501. 23-501.1, 23-502 through 23-534, 23-601 through 23-604, 23-604.1, 23-604.2, 23-605 through 23-612, 23-701 through 23-713, 23-801 through 23-820, 23-901 through 23-929, 23-931, 23-933 through 23-936, 23-1001, 23-1008 through 23-1009, 23-1101 through 23-1107, 23-1109 through 23-1117, 23-1201 through 23-1228, 23-1301, 23-1302(1), 23-1302(2), 23-1303, 23-1303.1, 23-1304 through 23-1321, 23-1401 through 23-1406, 23-1501 through 23-1503, 23-1601 through 23-1608, 23-1608A, 23-1609 through 23-1618, 23-1701 through 23-1715, 23-1801 through 23-1808, 23-1812 through 23-1819, 23-1901 through 23-1904, 23-2001 through 23-2012, 23-2014, 23-2101 through 23-2111, 23-2201 through 23-2206, 23-2301 through 23-2323, 23-2401 through 23-2411, 23-2501 through 23-2507, R.C.M. 1947."

Respectfully report as follows: That SENATE Bill No. 323

be amended as follows:

1. Amend section 159, line 1, page 85 of the original bill, being section 159, line 1, page 84 of the printed bill following the number and punctuation "159" by inserting the following number "(1)".

2. Further amend section 159, page 85, following line 5, being section 159, page 84 following line 5 by adding a new subsection which reads as follows:

"(2). Where voting machines are used, an elector may request to vote by paper ballot instead of using the voting machines. The election judges shall provide the elector with a paper ballot when requested. Paper ballots shall be cast and counted by the election judges in the manner provided by law."

3. Further amend section 166, page 88, following line 3, being section 166, page 87, following line 24 of the printed bill by adding a new subsection which reads as follows:

DO PASS

"(5) In precincts where an electronic voting system is used, an elector may request a paper ballot to cast his vote and the election judge shall supply the elector with the paper ballot when so requested. These ballots will be cast and counted by the election judges in the manner provided by law."

And as amended,

DO PASS

Committee Report form
Revised 1968

FORM 19

.....
Chairman.

JOINT CONFERENCE COMMITTEE REPORT

MR SPEAKER AND PRESIDENT OF THE SENATE:

We, your joint House and Senate Conference Committee, having had under consideration House Amendments to Senate Bill No. 323, beg leave to report as follows:

That the House agrees to recede from the following House Amendments

and further amend section 49, page 24, following line 7 of the original bill, being section 49, following line 23, page 24 of the printed bill by adding a new subsection which reads as follows:

"(b) The board of county commissioners may appoint additional counting boards of election judges and clerks whose duties are to tabulate absentee ballots cast for the individual candidates and issues on the ballot."

and further amend section 77, subsection (2), page 43, line 15 of the original bill, being section 77, subsection (2), page 43, line 10 of the printed bill, after the word "act" by adding the words "or acts"

and further amend section 77, subsection (2), page 43, line 15 of the original bill, being section 77, subsection (2), page 43, line 11 of the printed bill, after the word "unlawful" by striking the punctuation and words "per-acts"

and further amend page 68 following line 2 of section 126 of the original bill, being page 68 following line 7 of section 126 of the printed bill, by adding a new section which reads as follows:

"Section 127. (1) the boardof county commissioners may appoint additional election boards who shall tabulate, in the manner provided by law, absentee ballots by precinct cast for the individual candidates and issues on the ballot. The board shall certify the results to the registrar.

(2) the election judges and clerks of the additional counting board shall take the same instructions and oaths other judges and clerks are required to take.

(3) there shall be no more than a majority of election judges represented by one political party.

(4) the counting of absentee ballots shallcommence on the day of election at a time and place designated by the commissioners. The counting shall not be open to the public and this board shall be dismissed no earlier than the time of closing of the polls.

(5) the judges shall reject any ballot on hand if the name of the voter is not listed on the "CERTIFICATES AND RECORD OF ABSENTEE VOTERS" furnished by the registrar.

(6) the counting board shall also meet at 8 a.m. on the day following election day to transfer the totals of the absentee ballots from their return sheets to the totals on the final return sheets compiled at the polls.

(7) the city clerk and school district clerk shall perform all duties prescribed for the registrar in this section. However, the commissioners shall appoint the members of the auxiliary counting board only."

and further amend by renumbering all of the sections following the amendment which creates a new section 127 in this act.

and further amend section 129, line 6, page 69 of the original bill, being section 127, line 1, subsection 1, page 69 of the printed bill following the number "(1)" by inserting the following material " except as provided in section 127 of this act,"

and further amend section 143, subsection (2), page 77, line 8 of the original bill, being section 143, subsection (2), page 77, line 12 of the printed bill, after the word "shall" by striking the word "not"

That the Senate agrees to accedeto the following House Amendments to Senate Bill 379:

by amending section 13, subsection(1), page 6, line 19 of the original bill, being section 13, subsection (1), page 7, line 4 of the printed bill, after the word "county" by inserting the words and parentheses "(if such thereabe)".

and further amend section 14, page 7, line 12 of the original bill being section 14, page 9, line 3 of the printed bill, after the word "county" insert the words and punctuation " if a newspaper is published therein, otherwise in a newspaper of general circulation therein,"

and further amend section 29, subsection (3), page 12, line 21 of the original bill, being section 29, subsection (3), page 13, line 9 of the printed bill, by striking the word "registry" as it appears the last time in that line and inserting in lieu thereof the word "register"

and further amend section 29, subsection (3), page 12, line 22 of the original bill, being section 29, subsection (3), page 13, line 10 of the printed bill, by striking the word "registery" and inserting in lieu thereof the word "register"

further amend section 34, subsection (1), following [illegible] page 15, line 24 of the original bill, being section 34, [illegible] following article (c), page 16, line 8 of the printed bill, [illegible] the following new material "(d) notify the elector within five (5) days by registered United States Mail that his qualifications as an elector have been challenged."

and further amend section 54, subsection (1), page 25, line 22 of the original bill, being section 54, subsection (1), page 26, line 2 of the printed bill, after the word "of" by striking the word "instructions" and inserting in lieu thereof the word "instruction"

and further amend section 96, subsection (1), article (a), page 53, line 20 of the original bill, being section 96, subsection (1), article (a), page 54, line 6 of the printed bill, after the word "be" by striking the word "in"

and further amend section 106, subsection (3), page 59, lines 18 and 19 of the original bill, being section 106, subsection (3), page 59, line 8 of the printed bill, after the letter and punctuation ""X"" by striking the following material "in-the-square-before-the-amendment or-question" and inserting in lieu thereof the following material "in the applicable square indicating his vote either for or against the amendment or question."

and further amend section 146, subsection (3), page 79, lines 8 through 13 of the original bill, being section 146, subsection (3), page 79, lines 7 through 11 of the printed bill, by striking the subsection in its entirety

and further amend section 159, page 85, line 1 of the original bill, being section 159, page 84, line 1 of the printed bill, following the number and punctuation "159." by inserting the following number "(1)"

and further amend section 159, page 85, following line 5 of the original bill, being section 159, page 84, following line 5 of the printed bill, by adding a new subsection which reads as follows:

"(2) where voting machines are used, an elector may request to vote by paper ballot instead of using the voting machines. The election judges shall provide the elector with a paper ballot when requested. Paper ballots shall be cast and counted by the election judges in the manner provided by law."

and further amend section 166, page 86, following line 3 of the original bill, being section 166, page 87, following line 24 of the printed bill, by adding a new subsection which reads as follows:

"(5) in precincts where an electronic voting system is used, an elector may request a paper ballot to cast his vote and the election judges shall supply the elector with the paper ballot when so requested. These ballots will be cast and counted by the election judges in the manner provided by law."

and further amend section 166, subsection (1), page 87, line 8 of the original bill, being section 166, subsection (1), page 87, line 2 of the printed bill, after the word and punctuation "elections," by adding the following material "after approval as provided by law,"

and further amend section 166, subsection (4), page 87, line 26 of the original bill, being section 166, subsection (4), page 87, line 18 of the printed bill, after the word "may" by adding the punctuation and words ", after approval as provided by law."

and further amend section 169, page 92, line 5 through 30 and page 93, line 1 through 3 of the original bill, being section 169, page 91, line 1 through 4 and page 92, lines 5 through 25 of the printed bill, by

material therein in its entirety, after [illegible] section 109." and inserting in lieu thereof the following material: "Rules and regulations--specifications for devices and equipment. (a) The secretary of state, state auditor and president of the Montana county clerk and recorders association shall constitute a board of election devices, which shall promulgate rules for the administration of this section, and shall approve the marking devices and automatic tabulating equipment used in electronic voting systems.

(b) No marking device or automatic tabulating equipment shall be approved unless it fulfills the following requirements:

(1) It shall permit and require voting in absolute secrecy.

(2) It shall permit each elector to vote at any election for all persons and offices for whom and for which he is lawfully entitled to vote, and no others; to vote for as many persons for an office as he is entitled to vote for; to vote for or against any question upon which he is entitled to vote; and to vote, where applicable, for all candidates of one (1) party or to vote a split ticket as he desires.

(3) It shall permit each elector, at presidential elections, by one (1) punch or mark to vote for the candidates of that party for presidential elector as a group.

(4) It shall comply with all other requirements of the election laws so far as they are applicable.

(5) No electronic voting system presently in use by any county, city or town in Montana shall be disapproved for use in such county, city or town by the board, except upon application by the governing body of said county, city or town."

and further amend section 186, page 99, line 12 of the original bill, being section 186, page 98, line 1 of the printed bill, after the word "Within", by striking the word and figures "~~thirty-(30)~~" and inserting in lieu thereof the word and figures "twenty (20)".

And the Senate also accedes to a new amendment as follows:

and further amend section 146, subsection (2), page 79, lines 4 and 5 of the original bill, being section 146, subsection (2), page 78, line 4 of the printed bill, by striking the following words and punctuation " ~~except-as-provided-in-subsection-(3)-of this-section,-a~~" and inserting in lieu thereof the capital letter "A".

BEST COPY AVAILABLE

March 3, 1969

JOINT CONFERENCE COMMITTEE REPORT ON SENATE BILL NO. 323

Newby
Representative Newby

M. Holtz
Representative Holtz

Robert G. Lee
Representative Lee

D Dzi
Senator Dziwi

Moore
Senator Moore

P. J. Keenan
Senator Keenan

...ED IN

...TED

BE NOT ADOPTED

SPEAKER:
MR. PRESIDENT:

We, your committee on CONSTITUTION, ELECTIONS AND FEDERAL RELATIONS

having had under consideration SENATE Bill No. 323

A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE CODIFICATION AND GENERAL REVISION OF THE LAWS RELATING TO THE ELECTION LAWS OF THE STATE OF MONTANA; REPEALING SECTIONS 23-101 THROUGH 23-106, 23-201 THROUGH 23-202, 23-[illegible] THROUGH 23-211, 23-401 THROUGH 23-407, 23-501, 23-501.1, 23-502 THROUGH 23-534, 23-601 THROUGH 23-604, 23-604.1, 23-604.2, 23-605 THROUGH 23-612, 23-701 THROUGH 23-713, 23-801 THROUGH 23-820, 23-901 THROUGH 23-929, 23-931, 23-933 THROUGH 23-936, 23-1001, 23-1000 THROUGH 23-1009, 23-1101 THROUGH 23-1107, 23-1109 THROUGH 23-1117, 23-1201 THROUGH 23-1228, 23-1301, 23-1302(1), 23-1302(2), 23-1303, 23-1303.1, 23-1304 THROUGH 23-1321, 23-1401 THROUGH 23-1406, 23-1501 THROUGH 23-1503, 23-1601 THROUGH 23-1608, 23-1608A, 23-1609 THROUGH 23-1618, 23-1701 THROUGH 23-1715, 23-1801 THROUGH 23-1808, 23-1812 THROUGH 23-1819, 23-1901 THROUGH 23-1904, 23-2001 THROUGH 23-2013, 23-2014, 23-2101 THROUGH 23-2111, 23-2201 THROUGH 23-2206, 23-2301 THROUGH 23-2323, 23-2401 THROUGH 23-2411, 23-2501 THROUGH 23-2508, R.C.M. 1947."

Respectfully report as follows: That SENATE Bill No. 323

be amended as follows:

by amending section 13, subsection (1), page 6, line 19 of the original bill, being section 12, subsection (1), page 7, line 4 of the printed bill, after the word "county" by inserting the words and parentheses "(if such there be)".

and further amend section 14, page 7, line 12 of the original bill, being section 16, page 7, line 3 of the printed bill, after the word "county" insert the words and punctuation "if a newspaper is published therein, otherwise in a newspaper of general circulation therein,"

and further amend section 29, subsection (3), page 12, line 21 of the original bill, being section 29, subsection (3), page 13, line 9 of the printed bill, by striking the word "registery" and inserting in lieu thereof the word "register"

and further amend section 29, subsection (3), page 12, line 22 of the original bill, being section 29, subsection (3), page 13, line 10 of the printed bill, by striking the word "registery" and inserting in lieu thereof the word "register"

and further amend section 34, subsection (1), following article (a), page 15, line 24 of the original bill, being section 34, subsection (1), following article (a), page 16, line 8 of the printed bill, by adding the following new material "(b) notify the elector within five (5) days by registered United States mail that his qualifications as an elector have been challenged."

BEST COPY AVAILABLE

COMMITTEE OF THE WHOLE AMENDMENT

EXAMPLE

I move to amend Section ....., Sub-Section ....., page ....., line ..... of the original bill, being Section ....., page ....., line ..... of the printed bill, by (deleting or striking) the following (words, figures, punctuation, underlining) " ..... " and inserting in lieu thereof the following (words, figures, punctuation, underlining " ..... "

STANDING COMMITTEE REPORT, S.B. 323 page two

[redacted]

and further amend section 49, page 24, following line 7, of the original bill, being section 49, following line 23, page 24 of the printed bill, by adding a new subsection which reads as follows:

"(b) The board of county commissioners may appoint additional counting boards of election judges and clerks whose duties are to count and tabulate absentee ballots cast for the individual candidates and issues on the ballot."

and further amend section 54, subsection (1), page 25, line 22 of the original bill, being section 54, subsection (1), page 26, line 2 of the printed bill, after the word "of" by striking the word "instructions" and inserting in lieu thereof the word "instruction"

and further amend section 77, subsectim (2), page 43, line 15 of the original bill, being section 77, subsection (2), page 43, line 18 of the printed bill, after the word "act" by adding the words "or acts"

and further amend section 77, subsection (2), page 43, line 15 of the original bill, being section 77, subsection (2), page 43, line 11 of the printed bill, after the word "unlawful" by striking the punctuation and words ",-or-acts"

and further amend section 96, subsection (1), article (a), page 53, line 28 of the original bill, being section 96, subsection (1), article (a), page 54, line 6 of the printed bill, after the word "be" by striking the word "in"

and further amend section 106, subsection (3), page 59, lines 18 and 19 of the original bill, being section 106, subsection (3), page 59, line 8 of the printed bill, after the letter and punctuation "X" by striking the following material "in-the-square-before-the amendment-or-question." and inserting in lieu thereof the following material "in the applicable square indicating his vote either for or against the amendment or question."

and further amend page 68 following line 2 of section 126 of the original bill, being page 68 following line 7 of section 126 of the printed bill, by adding a new section which reads as follows:

"Section 127. (1) the board of county commissioners may appoint additional election boards who shall tabulate, in the manner provided by law, absentee ballots by precinct cast for the individual candidates and issues on the ballot. The board shall certify the results to the registrar.

(2) the election judges and clerks of the additional counting board shall take the same instructions and oaths other judges and clerks are required to take.

(3) there shall be no more than a majority of election judges represented by one political party.

COMMITTEE OF THE WHOLE AMENDMENT

EXAMPLE

I move to amend Section ....., Sub-Section ....., page ....., line ..... of the original bill, being Section ....., page ....., line ..... of the printed bill, by (deleting or striking) the following (words, figures, punctuation, underlining) "....." and inserting in lieu thereof the following (words, figures, punctuation, underlining "....."

(4) the counting of absentee ballots shall commence on the day of election at a time and place designated by the commissioners. The counting shall not be open to the public and this board shall be dismissed no earlier than the time of closing of the polls.

(5) the counting board shall reject any ballot on hand of the name of the voter is not listed on the "CERTIFICATES AND RECORD OF ABSENTEE VOTERS" furnished by the registrar.

(6) the counting board shall also meet at 8 a.m. on the day following election day to transfer the totals of the absentee ballots from their return sheets to the totals on the final return sheets compiled at the polls.

(7) the city clerk and school district clerk shall perform all duties prescribed for the registrar in this section. However, the commissioners shall appoint the members of the auxiliary counting board only."

and further amend by renumbering all of the sections following the amendment which creates a new section 127 in this act.

and further amend section 129, line 6, page 69 of the original bill, being section 129, line 1, subsection 1, page 69 of the printed bill following the number "(1)" by inserting the following material "except as provided in section 127 of this act,"

and further amend section 143, subsection (2), page 77, line 8 of the original bill, being section 143, subsection (2), page 77, line 12 of the printed bill, after the word "shall" by striking the word "not"

and further amend section 146, subsection (3), page 79, lines 8 through 13 of the original bill, being section 146, subsection (3), page 79, lines 7 through 11 of the printed bill, by striking the subsection in its entirety

and further amend section 159, page 83, line 1 of the original bill, being section 159, page 84, line 1 of the printed bill, following the number and punctuation "159," by inserting the following number "(1)"

and further amend section 159, page 83, following line 5 of the original bill, being section 159, page 84, following line 5 of the printed bill, by adding a new subsection which reads as follows:

"(2) where voting machines are used, an elector may request to vote by paper ballot instead of using the voting machine. The election judges shall provide the elector with a paper ballot when requested. Paper ballots shall be cast and counted by the election judges in the manner provided by law."

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COMMITTEE OF THE WHOLE AMENDMENT

EXAMPLE

I move to amend Section ....., Sub-Section ....., page ....., line ..... of the original bill, being Section ....., page ....., line ..... of the printed bill, by (deleting or striking) the following (words, figures, punctuation, underlining) "....." and inserting in lieu thereof the following (words, figures, punctuation, underlining " ".

and further amend section 166, page 88, following line 3 of the original bill, being section 166, page 87, following line 24 of the printed bill, by adding a new subsection which reads as follows:

"(5) [illegible] where an electronic voting system is used, an elector may request a paper ballot to cast his vote and the election judges shall supply the elector with the paper ballot when so requested. These ballots will be cast and counted by the election judges in the manner provided by law."

and further amend section 166, subsection (1), page 87, line 8 of the original bill, being section 166, subsection (1), page 87, line 2 of the printed bill, after the word and punctuation "elections," by adding the following material "after approval as provided by law,"

and further amend section 166, subsection (4), page 87, line 26 of the original bill, being section 166, subsection (4), page 87, line 18 of the printed bill, after the word "may" by adding the punctuation and words ", after approval as provided by law."

and further amend section 169, page 92, line 5 through 30 and page 93, line 1 through 3 of the original bill, being section 169, page 91, line 1 through 4 and page 92, lines 5 through 25 of the printed bill, by striking the material therein in its entirety, after the words and figures "Section 169." and inserting in lieu thereof the following material:

"[illegible]. Rules and regulations--specifications for devices and equipment. (a) The secretary of state, state auditor and president of the Montana county clerk and recorders association shall constitute a board of election devices, which shall promulgate rules for the administration of this section, and shall approve the marking devices and automatic tabulating equipment used in electronic voting systems.

(b) No marking device or automatic tabulating equipment shall be approved unless it fulfills the following requirements:

(1) It shall permit and require voting in absolute secrecy.

(2) It shall permit each elector to vote at any election for all persons and offices for whom and for which he is lawfully entitled to vote, and no others; to vote for as many persons for an office as he is entitled to vote for; to vote for or against any question upon which he is entitled to vote; and to vote, where applicable, for all candidates of one (1) party or to vote a split ticket as he desires.

(3) It shall permit each elector, at presidential elections, by one (1) punch or mark to vote for the candidates of that party for presidential elector as a group.

COMMITTEE OF THE WHOLE AMENDMENT

EXAMPLE

I move to amend Section ....., Sub-Section ....., page ....., line ..... of the original bill, being Section ....., page ....., line ..... of the printed bill, by (deleting or striking) the following (words, figures, punctuation, underlining) "..... " and inserting in lieu thereof the following (words, figures, punctuation, underlining "..... ".

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~~MR. CHAIRMAN: I MOVE TO AMEND SECTION~~

(4) It shall comply with all other requirements of the election laws so far as they are applicable.

(5) No electronic voting system presently in use by any county, city or town in Montana shall be disapproved for use in such county, city or town by the board, except upon application by the governing body of said county, city or town."

and further amend section 186, page 99, line 12 of the original bill, being section 186, page 98, line 8 of the printed bill, after the word "within", by striking the word and figures "thirty-(30)" and inserting in lieu thereof the word and figures "twenty (20)".

OK

property, owned and operated by every scheduled airline company, as an integrated operation; and,

(2) Allocating to the state of Montana, from this total valuation, a valuation which represents this state's proper share of the valuation of the flight property, through the application of ratios, which are indicated in section 84-6403, subsections (8), (9), (10) and (11), against the total valuation."

Effective immediately.

Section 3. This act shall be effective on its passage and approval.

Approved: March 15, 1969.

CHAPTER NO. 368

An Act for the Codification and General Revision of the Laws Relating to the Election Laws of the State of Montana; Repealing Sections 23-101 through 23-106, 23-201 through 23-202, 23-301 through 23-311, 23-401 through 23-407, 23-501, 23-501.1, 23-502 through 23-534, 23-601 through 23-604, 23-604.1, 23-604.2, 23-605 through 23-612, 23-701 through 23-713, 23-801 through 23-820, 23-901 through 23-929, 23-931, 23-933 through 23-936, 23-1001, 23-1008 through 23-1009, 23-1101 through 23-1107, 23-1109 through 23-1117, 23-1201 through 23-1228, 23-1301, 23-1302(1), 23-1302(2), 23-1303, 23-1303.1, 23-1304 through 23-1321, 23-1401 through 23-1406, 23-1501 through 23-1503, 23-1601 through 23-1608, 23-1608A, 23-1609 through 23-1618, 23-1701 through 23-1715, 23-1801 through 23-1808, 23-1812 through 23-1819, 23-1901 through 23-1904, 23-2001 through 23-2012, 23-2014, 23-2101 through 23-2111, 23-2201 through 23-2206, 23-2301 through 23-2323, 23-2401 through 23-2411, 23-2501 through 23-2507, R.C.M. 1947.

It is the intent of the legislative assembly that all non-amendatory sections of this bill be codified in Title 23, Revised Codes of Montana, 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. As used in this act, unless the context clearly indicates otherwise:

"Election." (1) "Election" means a general, special, primary nominating, municipal election, or an election in a school district.

"General election." (2) "General election" means an election held for the election of officers throughout the state at times specified by law.

"Special election." (3) "Special election" means an election called by the proper authorities to fill vacancies or to raise money.

"Vacancy." (4) "Vacancy" means an office which does not have an incumbent who has a right to exercise its functions and take its fees or emoluments.

"Primary." (5) "Primary" or "primary election" means a statutory procedure for nominating candidates to public office at the polls.

"Party." (6) "Party" means any political organization which at the last preceding election for governor polled at least three percent (3%) of the votes for governor.

"Taxpayer." (7) "Taxpayer" means a person who has paid a tax on property assessed on a county or city assessment roll next preceding the election at which a question is to be submitted to the vote of the taxpayers.

"Registrar." (8) "Registrar" means the county clerk and recorder and any regularly appointed deputy clerk and recorder.

"Commissioners." (9) "Commissioners" means the board of county commissioners.

"City." (10) "City" means any incorporated city or town.

"Council." (11) "Council" means any municipal council or commission.

Elections by ballot. Section 2. All elections shall be by ballot.

Person elected. Section 3. The person receiving the highest number of votes for any office at an election is elected to that office.

General election. Section 4. A general biennial election shall be held throughout the state in every even-numbered year on the first Tuesday after the first Monday of November.

Hours of polls. Section 5. (1) Except as provided in subsection (2) of this section:

(a) the polls must be opened at 8 a.m. on the morning of election day, and must be kept open continuously until 8 p.m. of that day;

(b) in precincts having less than one hundred (100) registered electors, the polls must be opened at 1 p.m. and closed at 8 p.m. of that day;

(c) whenever all registered electors in any precinct have voted, the polls shall be closed immediately.

(2) If a special election is held by a county, city, high school district, or school district on the question of incurring an indebtedness or making a special or additional levy for any purpose, the polls shall open at 12 noon and be kept open continuously until 8 p.m. However, the poll hours shall be as specified in subsection (1) of this section if the election is held on the same day, at the same polling places, and with the same judges and clerks as a general, county, school, or city election.

Persons entitled to vote.

Section 6. (1) Except as provided in Section 7 of this act, every person, if registered as required by law, is entitled to vote at all general and special elections for all officers which are elective, and upon all questions submitted to the vote of the people if he has the following qualifications:

(a) he must be twenty-one (21) years of age;

(b) he must have resided in the state one (1) year and in the county thirty (30) days immediately preceding the election at which he offers to vote;

(c) he must be a citizen of the United States.

(2) No person convicted of a felony has the right to vote unless he has been pardoned.

(3) No person adjudicated insane has the right to vote unless he has been restored to capacity as provided by law.

Election on governmental debt—voters.

Section 7. If an election is held on the question of incurring a state debt, issuing bonds or debentures by the state other than refunding bonds or debentures, or the levy of a state tax for any purpose, persons must meet the requirements of Section 6 of this act to vote, be a taxpayer on property in the state, and be listed on the

last completed assessment roll of a county for state, county, and school district taxes.

Registration in county where not listed.

Section 8. (1) If an elector is registered in a county where his name does not appear on the last completed assessment roll but his name does appear on the last completed assessment roll of another county, he is entitled to vote on a state debt or tax levy in the precinct in which he is registered if he presents to the registrar of the county in which he is registered before close of registration:

(a) a receipt from the treasurer of the county in which he appears on the last assessment roll showing payment of the taxes, or,

(b) a certificate from the treasurer of that county certifying that he is assessed with property, but that the taxes have not yet been paid.

(2) The certificate must be dated, numbered, name the elector, describe the property assessed, show the amount of taxes, and be signed by the county treasurer. The treasurer must keep a duplicate on file.

(3) Whenever a certificate or receipt from the county treasurer is presented, the registrar shall:

(a) enter the elector's name in the poll book of electors entitled to vote on the question;

(b) enter in the poll book the date and number of the tax receipt or certificate and the county in which issued.

(4) An elector meeting these qualifications is entitled to a ballot.

Notice of closing registration—when.

Section 9. (1) If the question of state indebtedness, issuance of bonds or debentures other than for refunding, or the levy of a tax for state purposes, is submitted at an election other than a general biennial election, the registrar of each county shall publish in the official county newspaper, a notice signed by him, stating that registration will close at noon on the fortieth (40th) day prior to the date of the election unless the act providing for the submission of the question fixes a different time for the giving of notice. The notice shall be published ten (10) days or more prior to the date when registra-

tion will be closed unless the act providing for submission of the question fixes a different time for closing registration.

(2) If the question is to be submitted at a general biennial election, notice and the closing of registration shall be governed by the laws applying to general biennial elections. The provisions of Section 37-107, R.C.M. 1947 apply to the printing and distribution of copies of the proposed law.

Voters privileged from arrest.

Section 10. Electors are privileged from arrest during their attendance at elections and in going to and from voting places except in cases of treason, felony, or breach of the peace.

Advertising questions submitted to people.

Section 11. Questions to be submitted to the people of the county or city must be advertised by publication in at least one (1) newspaper within the county or city once a week for two (2) successive weeks. One (1) of the publications must be upon the last day the newspaper is issued before the election.

Constitutional amendments.

Section 12. If a proposed constitutional amendment or amendments are submitted to the people, the secretary of state shall:

(1) have the proposed amendment or amendments published in full once a week in one (1) newspaper in each county (if such there be) for four (4) weeks prior to the next general biennial election;

(2) have a pamphlet printed containing an exact copy of the proposed amendment or amendments, an exact copy of existing constitutional provisions to be revised, and the amendment or amendments in the form in which it or they will be printed on the official ballot. The printed pamphlets shall be distributed as provided in Section 37-107, R.C.M. 1947.

Election proclamation.

Section 13. Sixty (60) days or more before a general election, the governor shall issue an election proclamation and transmit a copy to each board of county commissioners. The proclamation shall contain:

(1) A statement of the time of the election and the offices to be filled;

(2) An offer of rewards stating: "There is a reward

of one hundred dollars ($100) for the arrest and conviction of any person violating any of the provisions of Sections 94-1401 through 94-1424, R.C.M. 1947. Rewards will be paid until the total amount expended reaches the sum of five thousand dollars ($5,000)."

Publication of proclamation.

Section 14. When a proclamation prescribed by Section 13 of this act is received, the commissioners shall have a copy published in a newspaper published in the county if a newspaper is published therein, otherwise in a newspaper of general circulation therein, and shall post a copy ten (10) days or more before the election at each polling place.

Special election.

Section 15. When a special election is ordered by the commissioners, they must issue an election proclamation containing the statement contained in Section 13 (1) of this act. The statement must be published and posted in the same manner as a proclamation issued by the governor.

Publication of election laws.

Section 16. The secretary of state shall publish copies of the election laws and laws which relate to elections. He shall transmit sufficient copies to each registrar. The registrar shall furnish each election precinct in his county with two (2) copies.

List of persons of voting age.

Section 17. No later than January 31 in any year in which a general election is held, the Montana highway patrol shall submit to the chairman of each major political party of the state, a list prepared from its driver license registration files, showing names and addresses of all persons who have reached voting age since the last general election or who will reach voting age before the date of the general election. No official of the Montana highway patrol shall be responsible for any honest error or omission in preparing the lists.

Election precinct.

Section 18. (1) The territorial unit for elections is the election precinct.

(2) The commissioners of each county shall establish a convenient number of election precincts equalizing the number of electors in each precinct as nearly as possible.

(3) The commissioners may change the boundaries of precincts but not between January 1 and December

1 in any year during which a general biennial election will be held.

(a) All changes must be certified to the registrar three (3) days or less after the change is made.

(b) All election precincts shall be designated by numbers, names, or both.

(c) Not more than ten (10) days after an order of the commissioners has established or changed the boundaries of an election precinct, the commissioners shall cause to be prepared and delivered a map to the registrar showing the borders of all precincts and school districts within the county.

(4) The boundaries of election precincts must conform to the wards of cities of the first, second, and third class and the boundaries of first class school districts only.

(5) A ward or school district may be divided into two (2) or more precincts, and a precinct may be divided into two (2) or more polling places.

(6) In cities not of the first, second, or third class, precincts may include two (2) or more wards, or may comprise territory included by one (1) or more wards together with contiguous territory lying outside the incorporated limits of the cities.

Changes in ward boundaries.

Section 19. Not more than ten (10) days after ward boundaries have been changed, the city council must certify any changes or alteration in the ward boundaries to the registrar and deliver to him a map showing boundaries of the wards, the streets, avenues and alleys by name and the wards by numbers.

Designation of election place.

Section 20. The commissioners shall make an order designating the place within each precinct where the election will be held at the session at which election judges are appointed. Copies of the order must be posted immediately in three (3) public places in the precinct.

County registrar.

Section 21. (1) Each county clerk and recorder is ex officio county registrar. He shall:

(a) serve without extra pay or compensation;

(b) have custody of registration books, cards, and other records provided for by this act.

(2) The official register of electors is an official record of the county clerk and recorder.

Notaries public deputies.

Section 22. (1) All notaries public are deputy registrars in the county in which they reside. They may registrar electors residing in any precinct within the county.

(2) The commissioners shall appoint two (2) deputy registrars who are not notaries public, one (1) from each of the two (2) major political parties, for each precinct in the county from lists of persons recommended by the political parties. If the parties fail to submit lists, the commissioners shall appoint deputy registrars without recommendations from the parties. A deputy registrar shall:

(a) be a qualified taxpaying resident elector in the precinct for which he is appointed;

(b) register electors residing in any precinct in the county.

(3) Not less than three (3) days after a registration card is filled out, deputy registrars shall forward the card to the registrar.

Official register.

Section 23. The registrars shall keep an official register in a manner which each registrar deems the most efficient. A card index shall be kept by the registrar and shall at all times be in the custody of the registrar. The form and information recorded in the registry book and on the registry cards shall be designated by the secretary of state.

Hours of registrar's office.

Section 24. (1) The registrar's office shall be open for voter registration from 8 a.m. until 5 p.m. on all regular working days except legal holidays as defined by Section 19-107, R.C.M. 1947, except that the registrar's office shall be kept open on election day during the hours when the polls are open.

(2) Registration cards shall be numbered consecutively in order of receipt.

(3) The registrar shall classify registration cards by precinct and arrange the cards for each precinct in alphabetical order.

(4) The cards for each precinct shall be kept in a separate file.

(5) Immediately after filling out a registration card, the registrar shall enter the information in the official register of the county in the proper precinct.

Registration procedure.

Section 25. (1) An elector may register by appearing before the registrar or deputy registrar in the county in which he resides and by:

(a) answering any questions asked by the registrar concerning items of information called for by registry cards;

(b) signing and verifying or affirming the affidavit or affidavits on the back of the card.

(2) Any elector in the United States service who is absent from the state and the county of which he is a resident may register by:

(a) mailing the registry card filled out and signed under oath to the registrar, or

(b) mailing the federal post card application filled out and signed under oath to the registrar.

(3) A person is guilty of a felony and upon conviction shall be imprisoned in the state prison for not less than one (1) nor more than three (3) years, if:

(a) he falsely personates another and causes the person so personated to be registered; or,

(b) falsely represents his name or other information required by registration to any registrar or deputy registrar and causes his name to be registered; or,

(c) causes any name to be placed upon the registry lists other than in the manner provided by this act.

Written request for registration.

Section 26. (1) If an elector is unable to appear before the registrar or a deputy registrar because of physical infirmity, he may send written notice to the registrar or to a deputy registrar asking that his registration be made at his residence.

(2) No person is entitled to receive reimbursement for expenses incurred in complying with this section.

Eligibility prior to election.

Section 27. (1) A person who is not eligible to register because of residence requirements but who will be eligible on or before election day, may register with the registrar if he answers the questions of the registrar and it appears that he will become qualified to vote by election day.

(2) A person shall not be permitted to register until he attains United States citizenship.

Transfer of registration.

Section 28. If an elector changes his residence, he may transfer his registration to the new precinct by:

(1) executing in person a new registry card before a deputy registrar of the new precinct, and the deputy registrar shall not receive compensation for this service, or

(2) making a request in writing to the registrar in a form prescribed by the secretary of state.

Same—procedure.

Section 29. (1) When a request to transfer registry is received, the registrar shall compare the elector's signature on the request with his signature on the registry card and may question the elector on any information shown on the registry card.

(2) If the registrar is satisfied, he shall endorse on the registry card the date of the transfer and the precinct to which transferred.

(3) The registrar shall file the registry card in the register of the precinct of the elector's residence, or in the register of the precinct of transfer, and transfer the elector's name to the proper precinct in the register.

(4) Where the elector changes his place of registration as provided in Section 28 (1) of this act, the registrar shall file the new card in the register of the precinct of the elector's present residence and transfer the elector's name to the proper precinct in the register. The old registration card shall be marked "cancelled" and placed in the "cancelled file."

Previous registration.

Section 30. (1) The registrar shall question each person registering to ascertain whether he has previously registered in this state. If the person has previously registered, the registrar shall enter his name in a separate

file which is indexed by counties. Cards for this purpose shall be in the form prescribed by the secretary of state.

(2) Not more than three (3) days after closing the registration books, the registrar shall forward the cards to the registrar where the applicant previously voted by registered or certified mail. The delivery receipt shall be kept on file with other election records.

(3) Upon receiving notice to cancel the registration of an elector, the registrar shall immediately draw red lines through the elector's name in the register and on the registration card.

List of registered electors.

Section 31. (1) Immediately after registration is closed, the registrar shall prepare lists of all registered electors. He shall also prepare a precinct register for each precinct and deliver it to the judges of election prior to the opening of the polls.

(2) The registrar shall stamp "taxpayer" beside the name of an elector who is a taxpayer to show he is qualified to vote in an election for the incurring of a state debt, issuance of bonds or debentures by the state, or the levying of a state tax. No other evidence is necessary to show that the elector is a taxpayer.

Duties of registrar.

Section 32. (1) Except as provided in subsection (3) of this section, immediately after every general biennial election, the registrar shall:

(a) compare the electors who have voted in each precinct, as shown by the official poll books, with the official register of each precinct;

(b) remove the registry cards of all electors who failed to vote, mark each card "cancelled," and place cancelled cards for the entire county in alphabetical order in the "cancelled file;"

(c) notify each elector in writing before the thirty-first day after cancellation by sending notice to his post office address as shown on the election records.

(2) An elector whose card is removed and cancelled may reregister in the same manner as his original registration was made.

(3) The registration of an elector in the United States

service may be cancelled upon failure to vote in the previous two (2) general elections.

Cancellation of registration.

Section 33. (1) The registrar shall cancel any registration card:

(a) at the written request of the person registered;

(b) when a certificate of the death of any elector is filed;

(c) within forty-five (45) days prior to the closing of registration three (3) qualified registered electors residing within the precinct may challenge an elector by filing affidavits giving the name of the challenged elector, his registry number, his residence, and stating of the personal knowledge of the affiant the person registered does not reside at the place designated on his registration card;

(d) when the insanity of the elector is legally established;

(e) if a certified copy of a final judgment of conviction of any elector of a felony is filed;

(f) if a certified copy of a court order directing the cancellation is filed with the registrar.

(2) Within thirty (30) days after registration has been cancelled, the registrar shall send written notice to the elector at the address shown on the registration card. If a person proves to the registrar that he is qualified, he may reregister.

Challenge of elector qualifications.

Section 34. (1) An elector may challenge the qualifications of another elector any time not later than twenty (20) days prior to an election. The challenge must:

(a) be filed with the registrar and be signed by the elector;

(b) be verified by the affidavit of the elector that the elector designated is not entitled to vote;

(c) state the grounds of the challenge, objection, and disqualification.

(d) notify the elector within five (5) days by reg-

istered United States mail that his qualifications as an elector have been challenged.

(2) The registrar shall:

(a) file the affidavit of challenge in his office;

(b) deliver a correct copy of the affidavit to the judges of election together with a copy of the precinct registers, check lists, and other documents;

(c) write opposite the name of any person whose qualifications are challenged the words, "to be challenged."

(3) An elector's right to vote may also be challenged on election day by any registered elector by orally stating to the election judges the grounds of the challenge.

(4) The election judges shall:

(a) test the qualifications of the elector challenged under oath if he applies to vote;

(b) compare the answers of the elector with the entries in the precinct register books;

(c) not permit him to vote if the elector is found to be disqualified because the answers given do not correspond to the entry in the precinct regisers, or the elector is disqualified for any cause under the law, or he refuses to take an oath or affirmation as to his qualifications.

(5) The election judges may require the challenged elector to produce one (1) or more elector of the county to be examined under oath as to the qualifications of the challenged elector, and may also request assistance from the county attorney and the registrar in determining the elector's qualifications.

Closing of registration.

Section 35. (1) The registrar shall:

(a) close all registration for forty (40) days before any election;

(b) immediately after closing registration send the secretary of state a certificate showing the number of voters registered in each precinct in a county;

(c) twenty (20) days before the closing, publish notice in a newspaper of general circulation in the county

specifying the day registration will close and post the notice in each precinct. The published notice shall continue for a period of twenty (20) days.

(2) The notice shall state that electors may register for the ensuing election by appearing before the registrar or before any deputy registrar as provided by law.

Registration after closing.

Section 36. During the time when the registry is closed preceding any election, a person may register and the registrar shall keep his registry card in a separate file until the official register is again open. At that time, all cards in the temporary file shall be placed in their proper position in the official register.

Electors shall be registered.

Section 37. (1) A person shall not vote at an election mentioned in this act unless his name appears on election day in the copy of the official precinct register furnished by the registrar to the election judges. The fact that his name appears in the copy of the precinct register is prima facie evidence of his right to vote.

(2) If the election judges have good reason to believe, or if they are informed by a qualified elector that the person offering to vote is not the person registered in that name, he shall not be allowed to vote until he has proved his identity by the oath of two (2) reputable electors of the precinct in which he is registered.

(3) The election judges in each precinct at every general or special election in a precinct register certified to them by the registrar shall:

(a) mark a cross (X) upon the line opposite the name of the elector;

(b) require the elector to sign his name upon one of the precinct registers;

(c) require an elector, who is not able to sign his name, to produce two (2) electors who shall make an affidavit before the election judges in a form prescribed by the secretary of state. One of the election judges shall write on the affidavit the elector's name, note his inability to sign, and the names of the electors making affidavits. The affidavits shall be returned to the registrar with the other election records.

Action to compel registration.

Section 38. In any action or proceeding instituted in a district court to compel the registrar to enter the name of any elector in the precinct register, as many persons may be joined as plaintiffs for cause of action and as many persons as there are causes of action may be joined as defendants.

Certificate of eligibility.

Section 39. (1) An elector whose name is erroneously omitted from a precinct register or other election register may secure from the registrar a certificate of the error stating the precinct in which he is entitled to vote and present the certificate to the election judges which will entitled him to vote.

(2) The certificate shall be marked "voted" by the election judges and returned by them with the precinct register.

Naturalized citizens.

Section 40. When a naturalized citizen applies for registration, he must produce a certificate of naturalization or a certified copy upon which the registrar must enter the date and county where presented. The registrar must also enter the applicant's name.

Residence—determination.

Section 41. For registration or voting, the residence of any person shall be determined by the following rules as far as they are applicable.

(1) The residence of a person is where his habitation is fixed, and to which, whenever he is absent, he has the intention of returning.

(2) A person may not gain or lose a residence while employed in the service of the United States or of this state, while a student at any institution of learning, while kept involuntarily at any public institution not necessarily at public expense, while confined in any public prison, or while residing on a military reservation.

(3) A person in the armed forces of the United States may not become a resident in consequence of being stationed at a military facility in the state. A person may not acquire a residence by reason of being employed or stationed at a training or other transient camp maintained by the United States within the state.

(4) A person does not lose his residence if he goes into another state, or other district of this state, for

temporary purposes with the intention of returning unless he exercises the election franchise in the other state or district.

(5) A person may not gain a residence in a county if he comes in for temporary purposes without the intention of making that county his home.

(6) If a person moves to another state with the intention of making it his residence, he loses his residence in this state.

(7) If a person moves to another state with the intention of residing there for an indefinite time, he loses his residence in this state even though he intends to return to this state at some future period.

(8) The place where a man's family resides is presumed his place of residence. However, a man who takes up or continues his residence at a place other than where his family resides with the intention of remaining, is a resident of the place where he resides.

(9) A change of residence can only be made by the act of removal joined with intent to remain in another place. There can only be one residence.

(10) The term of residence must be computed by including the day of election.

List of electors on precinct registers.

Section 42. (1) The registrar shall have a list printed of all registered electors shown on the precinct registers of the county, city, or first class school disrict ten (10) days or more preceding any election.

(2) The list shall show the name of the elector in full, the number and street of his residence if he resides within a city, his post office address if he resides outside a city, and the registry number.

(3) Ten (10) days or more before any election, a copy of the list of registered voters shall be posted in each precinct. Sufficient copies of the lists shall be retained by the registrar and furnished to an elector upon request.

(4) If no declarations of nomination have been filed forty (40) days before a primary election for city offices, the city clerk shall immediately notify the registrar in

writing and the list of registered electors for the city shall not be printed or posted.

(5) The list of registered voters prepared for a primary election may be posted and used for the general election only if a supplemental list giving the names of electors who have registered after the first list was prepared is printed and posted.

(6) The expense of printing this list shall be paid by the county, city, or school district, in which the election is to be held.

Precinct register.

Section 43. After the closing of the official register and before the election, the registrar shall:

(1) prepare a "precinct register" for each precinct for use by clerks and election judges;

(2) list the names of electors in alphabetical divisions;

(3) show all information from the registry card of each elector, except the oath of the elector;

(4) deliver a certified copy of the precinct register to the election judges prior to the opening of the polls;

(5) combine into one (1) precinct register the names of all electors in the several precincts where the precincts in city elections, or elections in school districts of the first class, include more than one (1) county precinct.

(6) If no declarations of nomination have been filed forty (40) days before a primary election for city offices, the city clerk shall immediately notify the registrar in writing, and the precinct register or registers shall not be prepared.

Violation by rejected voter.

Section 44. A person whose vote has been rejected who offers to vote at the same election at any other polling place is guilty of a misdemeanor.

Help and costs.

Section 45. The commissioners shall provide the registrar with sufficent help for the duties imposed by this act. The cost of stationery, printing, publishing and posting are a proper charge against the county.

Registration cost.

Section 46. (1) For each name entered on a precinct register prepared for a city or first class school district,

the registrar shall charge the city or school district three cents ($.03). He shall also charge the actual expense incurred in printing and posting the lists of electors, publishing notice, and other expenses incurred on account of the city or school district.

(2) The council or board of school trustees shall order a warrant drawn for the expenses specified in subsection (1) of this section within thirty (30) days after notification of the charges.

(3) If no general city election is required, the registrar shall not prepare precinct registers.

(4) If there are only as many candidates nominated as there are vacancies on a first class school district board of trustees, the registrar shall not prepare precinct registers.

(5) Within two (2) days after nominations are legally closed, the city clerk or clerk of a first class school district shall notify the registrar when no precinct registers are required.

Cost of official precinct register.

Section 47. Upon written request, the registrar shall furnish any person a copy of the official precinct registers. Upon delivery, the registrar shall collect a charge of five cents ($.05) for each name entered in the official register.

Violation and penalty.

Section 48. (1) Any person or any officer of a county, city, or school district required to perform duties under this act who wilfully or knowingly fails to do so shall be fined not less than three hundred dollars ($300) nor more than one thousand dollars ($1000), or be imprisoned in the county jail for not less than three (3) months nor more than one (1) year. If an officer is involved, the judge of the district court shall also remove him from office.

(2) Any person who makes false answers; violates or attempts to violate any of the provisions of this act; mutilates, secretes, destroys, or alters election records except as provided by law; or knowingly encourages another to violate the act; or any public officer or other person upon whom any duty is imposed by this act who wilfully neglects that duty or wilfully performs the duty in a way which hinders the purposes of this act is

guilty of a felony. Upon conviction he shall be imprisoned for not less than one (1) year nor more than fourteen (14) years. If a public officer, he shall also forfeit his office and never be qualified to hold public office again either elective or appointive.

Election judges.

Section 49. (1) At their regular meeting next preceding a general primary election, the commissioners shall appoint five (5) election judges for each precinct having two hundred (200) or more electors and three (3) election judges for each precinct having less than two hundred (200) electors. Judges for new precincts shall be appointed based upon the estimated number of electors.

(2) If a precinct has three hundred fifty (350) or more electors, the commissioners may appoint a second board of five (5) election judges who shall have the same qualifications as the first board. The second board shall:

(a) meet at their respective polling places as ordered;

(b) count and tabulate ballots as soon as the first board has completed their duties in regard to the voting.

(3) If counting and tabulating the ballots is not completed by 8 a.m. on the day following the election, the first board shall reconvene and relieve the second board until 8 p.m. when the second board shall again reconvene and relieve the first board until the ballots are counted and tabulated.

(4) The election judges constituting the boards shall number the ballots and count the tally upon the tally sheets and indicate upon the tally sheets the work of each board. The board completing the count shall certify the returns as required by law.

Same—when chosen.

Section 50. (1) The election judges shall be chosen from lists of qualified voters submitted by the two (2) major political parties thirty-five (35) days or more before the commissioners meeting which precedes the next primary election.

(2) The list of each party must contain twice the number of election judges to be appointed and not more than a majority may be appointed from one (1) political party for each precinct.

(3) The commissioners may appoint election judges in their discretion to fill vacancies or if a major political party fails to submit a list of election judges.

(4) No person shall be appointed to serve as an election judge or election clerk who is a candidate, spouse of a candidate, or related to a candidate for office within the second degree of consanguinity. However, this subsection does not apply to school district elections nor to candidates for precinct committeeman or committeewoman.

Clerks of election.

Section 51. (1) The election judges may appoint two (2) persons having the same qualifications as themselves to act as clerks of the election who serve at the pleasure of the judges.

(2) The election judges continue to be judges of all elections held in their precincts until other judges are appointed.

(3) The commissioners shall fill vacancies which occur in the office of election judge.

Same—notification.

Section 52. (1) The registrar must notify the election judges in writing of their appointment.

(2) Twenty (20) days or more before any general election, the registrar shall mail two (2) notices of the election to the election judges. The notices shall be in the form prescribed by the secretary of state.

(3) Ten (10) days or more prior to the election, the election judges shall post one (1) notice at the place where the election will be held and the other in one (1) of the most public places in the precinct.

Oaths of officials.

Section 53. (1) Before votes are cast, the election judges and clerks must take and subscribe the official oath prescribed by the constitution. The election judges may administer the oath to each other and to the clerks.

(2) Any election judge or a clerk may administer and certify oaths required during an election.

Instruction of judges.

Section 54. (1) Before each election, all election judges who do not possess a certificate of instruction shall be instructed by a person named by the commissioners in the powers, duties, and liabilities of election judges.

(2) The instructor shall call meetings as necessary.

(a) The election judge shall attend each meeting and receive at least two (2) hours of instruction.

(b) Each election judge shall receive compensation fixed by the commissioners at the prevailing federal minimum wage for instruction to be paid at the same time and in the same manner as for services on election day.

(3) Each judge shall receive a certificate of completion from the instructor upon completion of the course. Each certificate is valid for a period of two (2) years.

(4) No person shall serve as election judge without a valid certificate. However, this does not apply to persons filling vacancies in emergencies.

(5) Notice of place and time of instruction must be given to the county chairmen of the two (2) major political parties by the commissioners.

Compensation of officials.

Section 55. The compensation of election judges and clerks shall be fixed by the commissioners at the prevailing federal minimum wage and be paid from county funds. The commissioners shall audit the accounts.

Primary election.

Section 56. The primary election shall be held on the first Tuesday in June preceding any general election to select candidates for:

(1) United states senators and representatives in Congress;

(2) other elective state, district, and county officers;

(3) delegates to any constitutional convention who will be chosen at the ensuing general election;

(4) county central committeemen and committeewomen by the political parties.

Nomination of candidates.

Section 57. In cities having a population of three thousand five hundred (3,500) or more as shown by the most recent federal or state census:

(1) the nomination of candidates by primary election for city offices shall be subject to the provisions of this chapter;

(2) political parties shall file declarations of nominations for city offices with the city clerk;

(3) the duties of the city clerk are the same as the registrar in conducting the primary elections, and the city clerk shall send notices of the primary election in the same manner as registrars send notices for nominations for county offices at primary elections;

(4) on the fourteenth day preceding a city election, the cities shall hold primary elections;

(5) if no declarations are filed forty (40) days or more before the primary election, no primary election shall be held and the city clerk shall certify to the registrar thirty-five (35) days or more before the date of the primary election that no petitions have been filed;

(6) the council shall;

(a) establish city voting precincts and wards,

(b) appoint city judges and clerks of elections and other officers necessary for the election,

(c) perform other necessary duties in the same manner prescribed for city elections.

Notices of election.

Section 58. (1) Twenty (20) days before any primary election, the registrar shall prepare printed notices of the election and mail two (2) notices to each judge of election.

(2) Each judge and clerk shall immediately post the notices in public places in their precinct.

(3) Notices shall be in the form, and contain information, as prescribed by the secretary of state.

Declaration of nomination.

Section 59. (1) Each candidate in the primary election, shall send a declaration of nomination to the secretary of state, registrar, or city clerk.

(2) The candidate must sign the declaration and send with it the required filing fee, to be acknowledged by a notary public if by mail, or by the officer of the office at which the filing is made.

(3) The declaration, when filed, is conclusive evidence that the elector is a candidate for nomination by his party.

(4) Nominating declarations are filed:

(a) in the office of secretary of state for congressional offices, state or district offices to be voted for in more than one (1) county, members of the legislative assembly, and judges of the district court;

(b) in the office of the registrar for county and district offices to be voted for in one (1) county only, and for township and precinct offices;

(c) in the office of the city clerk for all city officers.

Filing fees.

(5) Filing fees are as follows:

(a) for offices having a salary of one thousand dollars ($1,000) or less per annum, ten dollars ($10), except candidates for the legislative assembly or lieutenant governor must pay fifteen dollars ($15);

(b) for offices having a salary of more than one thousand dollars ($1,000) per annum, one percent (1%) of the total annual salary;

(c) for the offices of county commissioner;

(i) in counties of the first class, forty dollars ($40),

(ii) in counties of the second class, thirty-five dollars ($35),

(iii) in counties of the third class, thirty dollars ($30),

(iv) in counties of the fourth class, twenty-five dollars ($25),

(v) in counties of other classes, ten dollars ($10),

(d) for offices in which compensation is paid in fees, five dollars ($5);

(e) for state, county, and precinct committeemen, delegates to national conventions, and presidential electors, no fees are required.

(6) A person nominated by having his name written in on the primary ballot and desiring to accept the nomination shall not have his name printed on the general election ballot unless he:

(a) files with the secretary of state, registrar or city

clerk, at least ten (10) days after the primary a written declaration indicating his acceptance of the nomination;

(b) pays the required filing fee,

(c) received at least five percent (5%) of the votes cast for the office at the last preceding general election.

(7) The declaration for nomiation shall be in form and contain information, prescribed by the secretary of state. Every declaration must be signed by the elector seeking nomination.

Filing of nominating declarations.

Section 60. Nominating declarations shall be filed not later than 5 p.m. forty (40) days before the date of the primary election. Declarations for nomination to an office filled by election throughout the state, as judge of a district court, to an office filled by election in more than one (1) county, or as a member of the legislative assembly shall be filed with the secretary of state. Declarations for nomination to an office filled by election in one (1) county, or district or city shall be filed with the registrar or city clerk.

Register of candidates for nomination.

Section 61. (1) The secretary of state, registrar, and city clerk shall keep a "Register of Candidates for Nomination at the Primary Nominating Election." The entries in the register shall contain on separate pages for each political party showing:

(a) the title of the office sought, and the name and residence of each candidate;

(b) the name of his political party;

(c) the date of receiving the declaration for nomination signed by the candidate;

(d) other information as may aid in arranging the official ballot.

(2) Immediately after the canvass of votes of the primary election, the officer shall enter in the register the date of entry, the name of each candidate nominated, the office for which he is nominated, and the name of the party making the nomination.

(3) When filed, the registers, declarations of nomination, letters and notices, and other documents required

by law are public records and open to inspection under proper regulation. Certified copies shall be available upon payment of the fee.

(4) The registrar shall keep all pollbooks, tally sheets, ballots, ballot stubs, and other documents for one (1) year, and then he shall destroy them.

Arrangement of candidates names.

Section 62. (1) Not more than forty (40) days and not less than thirty-two (32) days before the date of the primary election, the secretary of state shall:

(a) arrange all names and information concerning candidates contained in the valid nominating declarations;

(b) certify the arrangement under state seal, file it in his office, and transmit a duplicate by registered mail to each registrar;

(c) post a duplicate in a conspicuous place in his office until after the primary election.

(2) Not more than thirty (30) days, and not less than twenty (20) days before the date of the primary election, the registrar or city clerk shall:

(a) arrange, as required by law, the names and other information concerning the candidates and parties named in the valid nominating declarations which have been certified to him or filed with him;

(b) certify the arrangement, file it in his office, and post a duplicate in a conspicuous place in his office until after the primary;

(c) have colored sample ballots and the official ballots printed as required by law.

Ballots.

Section 63. (1) At the primary, there shall be a ballot for each political party entitled to participate. Each ballot shall be printed on a separate sheet of white paper of the same size, folded, and securely fastened at the top.

(2) Candidates' names shall be arranged alphabetically by surnames, under the offices and under the proper party designation. When two (2) or more persons are candidates for nomination for the same office, the registrar shall divide the ballot to provide a rotation of the names of the candidates as follows:

(a) divide all county ballot forms into sets equal in number to the greatest number of candidates for nomination or election to any office;

(b) arrange the sets so that candidates' names are rotated by removing one name from the top of the list for each nomination or office and place the name or number at the bottom of the list for each successive set of ballot forms; however, in printing ballots for use in any one (1) precinct, only one (1) set shall be used and they shall be identical;

(c) if an elector writes the name of a person upon a ballot, and the person's name appears as a candidate upon another ballot, the ballot shall count for the person only as a candidate of the party upon whose ticket his name is written;

(d) if a person is nominated upon more than one (1) ticket, not later than ten (10) days after the election he shall file written notification with the secretary of state, registrar, or city clerk the party under which his name is to appear upon the ballot for the general election, and, if he fails to notify the proper officers, his name shall appear under the party with whom his nominating declaration was first filed;

(e) if a person fails to be nominated upon the party ticket contained in his nominating declaration, his name shall not be printed upon any ballot with party designation;

(f) this act does not preclude an elector from having his name printed upon the ballot as an independent candidate, and no candidate shall have his name printed on more than one (1) ticket.

(3) Ballots shall be printed on white paper in the form of the Australian ballot and the candidates of each party shall be printed on a separate ticket.

(4) After preparing his ballot, the elector shall detach it from the remaining tickets and fold it so that the face is concealed and the official stamp is seen;

(a) the elector shall fold the remaining tickets, vote the marked ballot without leaving the polling place, and deposit the remaining tickets in a separate box marked as the blank ballot box;

(b) immediately after the recount period, the election judges shall, without examination, destroy the tickets deposited in the blank ballot box.

Ballots—number—samples.

Section 64. (1) Ballots equal to the number of voters entitled to vote in the primary shall be printed and furnished to each election precinct.

(2) If a political party desires sample ballots its political committee may order them from the registrar or city clerk and pay the costs of printing. The registrar or city clerk shall order delivery in writing of the sample ballots and no sample ballots shall be printed without an order from the registrar or city clerk.

(3) Sample ballots shall be duplicates of the official ballot, but shall not be printed on white paper, shall not have the same margins, and shall not have perforated stubs.

Counting ballots.

Section 65. Immediately after the polls are closed at a primary election, the election clerks and judges shall open the ballot boxes and:

(1) count the ballots cast by each political party and fasten the ballots cast for each political party into separate files,

(2) take the tally sheets provided by the registrar and count the ballots for each political party,

(3) certify the number of votes cast for each candidate for each office,

(4) place the counted ballots in the box.

Tally sheets.

Section 66. (1) The registrar shall furnish tally sheets for each political party having candidates in the primary election for each voting precinct. Tally sheets shall contain the names of the candidates, names of the political parties designated at the head, and be numbered in the order in which the names appear on the official ballot.

(2) Tally sheets shall show:

(a) the number and name of each person voted for;

(b) office for nomination to which each person was voted for;

(c) total number of votes cast for each candidate for nomination.

(3) The election clerks and judges shall audibly announce the tally or count, and shall keep the tally in the form prescribed by the secretary of state. The tally or count shall be certified by the election clerks and judges.

(4) The election clerks shall in ink:

(a) keep tally upon the prescribed tally sheet of each political party;

(b) total the number of tallies and write the total immediately to the right of the last tallies for each candidate and also in the columns headed "total vote;"

(c) prepare the certificate required by subsection (3) of this section;

(d) immediately upon completion of the count, sign the tally sheets, and each clerk shall certify which sheets were kept by him;

(e) if the chairman and judges are satisfied with the correctness of the tally sheets, they shall sign all the tally sheets.

(5) The election clerks shall then prepare a statement of that portion of the tally sheets showing the number and name and political party of each candidate for nomination and the office and total votes received by each in the precinct, and shall prepare the certificate. The election clerks and judges who complete the count shall sign the statement and immediately post it in a conspicuous place outside of the polls. The statement shall remain posted for ten (10) days.

Duties of election clerks and judges.

Section 67. (1) Immediately after canvassing votes, the election clerks and judges who complete the count shall enclose the pollbooks in separate envelopes and securely seal them. The election clerks and judges shall:

(a) enclose the tally sheets in separate envelopes and securely seal them;

(b) enclose the precinct registers in separate envelopes and securely seal them;

(c) enclose all ballots fastened together and in separate envelopes and securely seal them;

(d) specify in ink the contents, and address each package to the registrar of the county in which the election precinct is situated;

(e) mark the sealed ballot packages on the outside showing what numbers are contained, but once sealed they are not to be opened until ordered by the proper court.

(2) When the count is completed, the sealed ballots shall be placed in two (2) ballot boxes, the boxes locked and the seal of the board pasted over the keyhole and rim of the lid so that to open the box the seal must be broken. The registrar or the canvassers making the abstracts of the votes shall not break the seal, nor shall anyone break the seal except upon court order in case of contest or on order of the commissioners when the boxes are needed for the ensuing election.

Abstracts of votes.

Section 68. (1) At 8 a.m. on the third day after the close of any primary election, or at 8 a.m. on a day sooner if all the returns are in, the registrar, taking two (2) assistants who are justices of the peace, county commissioners, or either, shall open the returns and make abstracts of the votes.

(2) Abstracts of votes for nomination of each party for governor, lieutenant governor, secretary of state, attorney general, state auditor, superintendent of public instruction, railroad commissioners, clerk of the supreme court, state treasurer, justices of the supreme court, United States senators, United States representatives, judges of the district court, and members of the legislative assembly, shall be on one (1) sheet, separately for each political party, and shall be forthwith transmitted to the secretary of state, as required by section 69 of this act.

(3) Abstracts of votes for county and precinct offices shall be placed on separate sheets for each political party, and the registrar shall certify the nomination for each party and enter upon his register of nominations the name of each of the persons having the highest number of votes for nomination. He shall notify each person who is nominated by mail.

(4) If there is a tie for the same nomination in one (1) party, the registrar shall notify the affected persons to come to his office at a time set by the registrar. The registrar shall then decide publicly by lot which of the persons is the nominee. The registrar shall enter the name of the person chosen as nominee upon his register of nominations.

(5) The registrar shall, on receipt of the primary returns, make out a certificate stating the compensation the election clerks and judges are entitled to and transmit this certificate to the commissioners. The commissioners shall order the compensation paid out of the county treasury.

(6) In all primary elections, the person having the highest number of votes for nomination to any office is the nominee for his political party for that office.

Delivery of abstracts to secretary of state.

Section 69. (1) The registrar, immediately after making the abstracts of votes, shall send a copy of each of the abstracts by mail to the secretary of state.

(2) The secretary of state shall, in the presence of the governor and the state treasurer, proceed not later than fifteen (15) days after the date of the primary election to canvass the votes given for nomination for governor, United States senator, United States representative, lieutenant governor, attorney general, superintendent of public instruction, railroad commissioners, secretary of state, state treasurer, state auditor, justices of the supreme court, clerk of the supreme court, judges of the district court, members of the legislative assembly, and all other officers voted in any district comprising more than one county.

(3) The governor shall grant a certificate of nomination to the person having the highest number of votes for each office, and shall issue a proclamation declaring the nomination of each person by his party.

(4) When a tie exists between two (2) or more persons for nomination in the same party, the secretary of state shall immediately give notice to the persons tied, to attend in person or by attorney, at his office at a time appointed by him. He shall then publicly decide by lot which person is nominated by his party. The governor shall issue his proclamation declaring the nomination of that person.

Errors in elections.

Section 70. (1) Whenever it appears by affidavit to the district court, to the supreme court, or to a supreme court judge:

(a) that an error or omission has occurred, or is about

to occur, in the printing of the name of any candidate or other matter on the official primary nominating election ballots;

(b) that any error has been, or is about to be, committed in the printing of the ballots;

(c) that the name of any person or any other matter has been, or is about to be, wrongfully placed upon the ballots;

(d) that any wrongful act has been performed by any judge or clerk of the primary election, registrar, canvassing board or member, or by any person charged with a duty under this act, or that any neglect of duty by any of the persons has occurred or is about to occur; the court shall require by order the officer or person charged with the act or neglect to perform his duties required by law or show cause why the order should not issue.

(2) Failure to obey the court order is contempt.

(3) Any person aggrieved by the refusal or failure of any person to perform any duty required by this act shall, without derogation of any other right or remedy, be entitled to seek a writ of mandamus in the district court and the proceeding shall be immediately heard and decided.

Contest of nominations.

Section 71. (1) Five (5) days or less after a person has been nominated, any person wishing to contest the nomination to any state, county, district, township, precinct, or city office shall give notice in writing to the person whose nomination he intends to contest briefly stating the cause for the contest.

(2) The contestant shall make application to the district court judge in the county where the contest is to be had. The judge shall then set the time for the hearing.

(3) The contestant shall serve notice three (3) days before the hearing is scheduled. The notice shall state the time and place of the hearing.

(4) The judge of the district court shall hear and determine the case and make all necessary orders for the trial of the case and carrying his judgement into effect. The order of the judge shall express the will of a majority of the legal voters of the political party, as indicated by their votes, disregarding technicalities or errors in spelling.

(5) Each party is entitled to subpoenas.

(6) The registrar shall issue a certificate to the person declared nominated by the court. The certificate shall be conclusive evidence of the right of the person to hold the nomination.

Election of committeemen.

Section 72. (1) Each political party shall elect at each primary election one (1) man and one (1) woman who shall serve as committeemen for each election precinct. The committeemen shall be residents and registered voters of the precinct.

(2) An elector may be placed in nomination for committeeman by a writing so stating, signed by the elector, notarized, and filed in the office of the registrar within the time for filing declarations naming candidates for nomination at the regular biennial primary election.

(3) The names of candidates for precinct committeeman of each political party shall be printed on the party ticket in the same manner as other candidates and the voter shall vote for them in the same manner as he does for other candidates.

Duties of committeemen.

Section 73. (1) Each committeeman shall represent his political party for the precinct in all ward or subdivision committees formed.

(2) The committeemen in each precinct shall constitute the county central committee of the respective political parties.

(3) Committeemen who reside within the limits of a city are ex officio the city central committee of their respective political parties and have the power to make their own rules not inconsistent with those of the county central committee. However, the county central committee has the power to fill vacancies in the city central committee.

(4) Each precinct committeeman has a term of two (2) years from the date of his election.

(5) If a vacancy occurs, the remaining members of the county committee may select a precinct resident to fill the vacancy.

Powers of central committee.

Section 74. (1) The county and city central committee may:

(a) make rules for the government of its political party in each county, not inconsistent with any of the provisions of this act nor the rules of its state political party;

(b) elect two (2) county members of the state central committee, one (1) shall be a man and one (1) shall be a woman; elect the members of the congressional committee; and fill all vacancies and make rules in their jurisdiction.

(2) If there is no county central committee, the state central committee shall appoint a county central committee.

Nominations to fill vacancies.

Section 75. County and city central committees may make nominations to fill vacancies occurring among the candidates of their respective parties nominated for city or county offices by the primary election if the vacancy is caused by death, resignation, or removal from the electoral district but not otherwise.

Committee meetings.

Section 76. (1) The committee shall meet prior to the state convention of its political party and organize by electing a chairman and one (1) or more vice-chairmen. The chairman or first vice-chairman shall be a woman. They shall elect a secretary and other officers as are proper. It is not necessary for the officers to be precinct committeemen.

(2) The committee may select managing or executive committees and authorize subcommittees to exercise any and all powers conferred upon the county, city, state, and congressional central committees by this act.

(3) The chairman of the county central committee shall call the central committee meeting and not less than four (4) days before the date of the central committee meeting shall publish the call in a newspaper published at the county seat and mail a copy of the call, enclosing a blank proxy, to each precinct committeeman. No proxy shall be recognized unless held by an elector of the precinct of the committeeman executing it.

(4) The county chairman of the party shall preside at the county convention. No person other than a duly elected

or appointed committeeman or officer of the committee is entitled to participate in the proceedings of the committee.

(5) If a committeeman and the appointed proxy are absent, the convention may fill the vacancy by appointing some qualified elector of the party, resident in the precinct, to represent the precinct in the convention.

(6) The county convention shall elect delegates and alternate delegates to the state convention under rules of the state party. The chairman and secretary of the county convention shall issue and sign certificates of election of the delegates.

Violation of act by election clerk or judge.

Section 77. (1) If an election clerk or judge of a primary election, or other officer or persons on whom a duty is enjoined, wilfully neglects that duty or commits any corrupt act in the discharge of his duty, he is guilty of a violation of this act. Upon conviction, he shall be imprisoned in the state prison for not less than one (1) year nor more than five (5) years, imprisoned in the county jail for not less than three (3) months nor more than one (1) year, or fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(2) If a candidate for nomination is guilty of any act which is wrongful or unlawful, or acts at the primary which would be sufficient to cause his removal from office if committed at the regular general election, he shall, upon conviction, be removed from office in the same manner as though the act had been committed at a regular general election, even though he may have been regularly elected and was not guilty of a wrongful or unlawful act at the election at which he was elected to his office.

Certificate of nomination.

Section 78. Except as provided in subsection (6) of this section, nominations for public office by an individual or a political party which did not appear on the ballot in the next preceding election may be made by executing a certificate of nomination.

(1) The certificate must be in writing and contain:

(a) the name of a candidate for the office to be filled;

(b) his residence, his occupation, and his business address.

(2) If a certificate is filed by a political party which did not appear on the ballot in the next preceding election, it must contain the party name and in five (5) words or less the principle which such body represents.

(3) The certificate must be signed by electors residing within the state and district, or political division in which the officer or officers are to be elected. Each elector signing a certificate shall add to his signature his place of residence, and his business address.

(4) The number of signatures must be five percent (5%) or more of the total vote cast for the successful candidate for the same office at the next preceding election.

(5) The candidates for nomination shall file the certificates ninety (90) days prior to the date of the general election.

(6) A person who desires to run for president or vice-president as an independent candidate, must file a certificate of nomination with the secretary of state. The certificate must have the signatures of electors equal to five percent (5%) or more of the legal votes cast for governor at the next preceding general election. He must also nominate the required number of electors allowable to Montana and certify the names to the secretary of state.

(7) This section shall not apply to nominations for special elections or to fill vacancies.

Preservation of certificates of nomination.

Section 79. (1) The secretary of state, registrars, and city clerks shall preserve all certificates of nominations for one (1) year. All certificates shall be open to public inspection under rules adopted by the various offices.

(2) Forty-five (45) days or more before an election, the secretary of state shall certify to the registrars the name and description of each person nominated, as specified in the certificates of nomination filed with him.

(3) Each election board shall transmit to the secretary of state a statement of the number of votes cast for a person as the candidate for the independent body by which he was nominated.

Nomination of candidates by political parties.

Section 80. (1) Every political party which received three percent (3%) or more of the total vote cast for

governor at the next preceding general election in the county, district, or state for which nominations are proposed to be made, shall nominate its candidate for public office in the county, district or state under this act.

(2) Every political party, and its regularly nominated candidates, members and officers, has the sole and exclusive right to the use of the party name. No candidate for office may use any word of the name of any other political party or organization other than that by which he is nominated.

(3) An independent or nonpartisan candidate shall not use any word of the name of any existing political party or organization in his candidacy.

(4) The names of candidates for public office nominated under this act shall be printed on the official ballots for the ensuing election as the only candidates of the respective parties for public office in the same manner as the names of the candidates nominated by other methods are required to be printed on the official ballots.

(5) Any political party that did not receive three percent (3%) or more of the total vote cast for governor, as provided in subsection (1) of this section, and any new political party about to be formed, may make nominations for public office as provided in section 78 of this act.

Power of political parties.

Section 81. (1) Each political party shall have power to:

(a) make its own rules and regulations;

(b) provide for and select its own offices;

(c) call conventions and provide for the number and qualification of delegates;

(d) adopt platforms;

(e) provide for selection of delegates to national conventions;

(f) provide for the nomination of presidential electors;

(g) provide for the selection of national committeemen and women;

(h) make nominations to fill vacancies occurring among

its candidates nominated for offices to be filled by the state at large or by any district consisting of more than one (1) county where such vacancies are caused by death, resignation or removal from the electoral district;

(i) perform all other functions inherent in such an organization.

Procedure to decline nominations and filling of vacancies.

Section 82. (1) Twenty (20) days or more before the election, a person nominated for public office may decline the nomination by a writing sent to the office with whom his nominating declaration is filed. In city elections, the declination shall be made ten (10) days or more before the election.

(2) If a vacancy occurs in the office of a candidate in case of death or removal from the state or district before the date of the primary, the vacancy shall be filled by the affected political party.

(3) When a vacancy occurs in the office of a candidate after the primary and before the general election in a multicounty district, the vacancy shall be filled as follows:

(a) The vacancy shall be filled by a committee of three (3) members selected from each county by the county central committees of the affected political party.

(b) The secretary of the committee shall transmit a certificate to the secretary of state with the information contained on the original certificate plus the cause of the vacancy, the name of the person nominated, the office to be filled, and the name of the person for whom the nomination was made.

(c) When the certificate is filed with the secretary of state he shall insert the name of the person nominated to fill the vacancy.

(d) If the secretary of state has certified the nominations to the registrars, he shall immediately certify to the registrars the name of the person nominated to fill the vacancy, the office to be filled, the party or political principle he represents, and the name of the person for whom the nominee is substituted.

Expenses of conventions.

Section 83. (1) Except as provided in subsection (2) of this section, expenses of county and state conventions shall be paid by the political parties.

(2) Elected delegates and alternates attending state conventions to nominate presidential electors shall be paid eight cents ($.08) per mile for travel to and from the convention paid from the county general fund.

Duties of commissioners.

Section 84. The commissioners shall:

(1) furnish pollbooks to each election precinct in a form prescribed by the secretary of state;

(2) furnish printed blanks for precinct registers, pollbooks, tally sheets, lists of electors, tickets, and returns, together with envelopes in which to enclose the returns;

(3) furnish for each polling precinct a ballot box or canvas pouch with a lock and key for the ballots and detached stubs.

City elections.

Section 85. In city elections, the city clerk shall perform all duties prescribed for registrars in this chapter.

Duties of registrars.

Section 86. Before the opening of the polls, the registrars or city clerks shall:

(1) deliver the election ballots to the judges of election in each polling place;

(2) deliver a rubber stamp which contains the words "Official Ballot," the name or number of the election precinct, the name of the county, the date of the election, and the name and official designation of the clerk who furnished the ballots.

Election supplies.

Section 87. In sending out election supplies to each precinct, the registrars shall send six (6) or more printed forms with a return envelope to the election judges to be used in sending election returns for public information. The forms shall be in ballot form and have printed on them the names of each candidate and each proposition.

Counting votes.

Section 88. (1) Immediately after all the ballots are voted in each precinct, the election judges shall copy the total votes cast for each candidate and for and against each proposition on the blanks furnished by the registrars in the preceding section.

(2) The election judges shall immediately post one of the blanks at the polling place, and send a copy by mail to the registrar.

Printed ballots.

Section 89. Except as otherwise provided in this act:

(1) the registrar shall provide printed ballots for every election for public officers. He shall print on the ballot the names of all candidates, including candidates for chief justice and associate justices of the supreme court, and judges of the district courts;

(2) an elector may write or paste on his ballot the name of any person for whom he desires to vote for any office, but must mark it as provided in section 106 of this act. When the ballot is marked in this manner it must be counted the same as though the name is printed upon the ballot and marked by the voter;

(3) ballots other than those printed by the registrars may not be cast or counted in any election.

Questions submitted to people.

Section 90. (1) When the secretary of state has certified to the registrar any question to be submitted to a vote of the people, the registrar must print the ballot in a form which will enable the electors to vote upon the question presented as provided by law.

(2) The registrar must prepare the necessary ballots whenever any question is to be submitted to the electors of any locality, or of the state generally. However, for questions submitted to the electors of a city alone, the city clerk shall prepare the necessary ballot.

Cost of ballots.

Section 91. (1) All ballots cast for public officers within the state, except school district officers, must be printed and distributed at public expense.

(2) The county shall pay for the printing of ballots and cards of instruction for elections in each county.

(3) The expense of printing and delivering ballots in city elections is a charge upon the city in which the election is held.

(4) All official ballots must be uniform in size and printing. This involves:

(a) uniformity in the type of ink used, which must be black, size of paper, type of white paper and arrangement of the paper, and the names of candidates printed upon the ballots shall be in type of the same size and character;

(b) when the stubs are detached, it must be impossible to distinguish any one of the ballots from another ballot;

(c) the ballots must contain the name of every candidate whose nomination is certified under law for a special office and no other names except that the names of candidates for president and vice president of the United States shall appear on the ballot as provided in section 214 of this act.

Candidates names.

Section 92. (1) Candidates' names shall be printed in one place on the ballot with the name of the party or political organization, as found in the certificate of nomination in not more than three (3) words, printed opposite the name.

(2) The names of candidates for chief justice, associate justices, and district court judges shall be followed by: "Nominated without party designation."

(3) If a person is nominated for the same office by more than one (1) party, he shall file a written election with the officer with whom he filed his declaration of nomination in the time required to file the declaration. If he fails or neglects to file an election, no party designation shall be placed opposite his name.

Vacancy before election.

Section 93. (1) If a vacancy occurs after the printing of the ballots but before election, and a person is nominated to fill the vacancy, the officer whose duty it is to have the ballots printed must print pasters containing the name of the new nominee and mail them to the election judges by registered letter.

(2) The election judges shall affix the pasters over the substituted name in the proper place on each ballot before it is given to the elector.

Arrangement of candidates names.

Section 94. (1) The candidates' names shall be arranged alphabetically on the ballots according to surnames under the appropriate title of the respective offices.

(2) The candidates of the two (2) major parties shall appear on the ballot before and above candidates of minor parties and independent candidates.

(3) The parties whose candidates for governor, except independent candidates, received the highest number of

votes at the next preceding four (4) general elections shall constitute the two (2) major political parties.

(4) If there is a tie in the number of first or second place votes, the determination shall be made by going back to enough preceding elections to break the tie and no further.

(5) All other candidates shall be designated as either independent candidates or as belonging to minor parties.

(6) If two (2) or more persons are candidates for election to the same office, the registrar shall divide the ballot forms into sets to provide a substantial rotation of the names of candidates as follows:

(a) he shall divide the whole number of ballot forms for the county into sets equal in number to the greatest number of candidates for any office;

(b) he shall arrange the sets so that the names of the candidates beginning with a form arranged in alphabetical order, are rotated by removing one (1) name from the top of the list for each office and placing the name or number at the bottom of the list for each successive set of ballot forms;

(c) for the purposes of rotation, the office of president and vice president shall be considered as a group;

(d) no more than one (1) of the sets shall be used in printing the ballots for use in any one (1) precinct, and all ballots furnished for use in any precinct shall be identical;

(e) candidates of the two (2) major parties shall be rotated so they appear on the ballot before and above any candidates of the minor parties or independent candidates.

Categories.

Section 95. (1) Each ballot shall contain three (3) categories with at least one (1) column for each category.

(2) At the head of the first column to the left shall be the words, "STATE AND NATIONAL," in bold face type, followed by a list of all candidates for state and national offices, including supreme court justices, district court judges, and members of the legislative assembly, and

the list shall progressively continue to the top of the second column.

(3) Next shall be the words "COUNTY AND TOWNSHIP," in large bold face type and beneath the heading all candidates for county and township offices. The list shall progressively continue on to the top of the third column.

(4) Next shall be the words "INITIATIVES, REFERENDUMS, AND CONSTITUTIONAL AMENDMENTS," in bold face type, and listed thereunder shall be all proposed constitutional amendments and measures to be voted which do not involve the creation of any state levy, debt, or liability. If there are no such measures, this heading shall be eliminated.

(5) Following each except the last column, the words "VOTE IN THE NEXT COLUMN" shall appear.

(6) All measures involving the creation of a state levy, debt, or liability shall be submitted to the voters upon a separate official ballot.

(7) Each ballot shall be printed so that all the matters printed are equally apportioned among the three (3) categories as nearly as possible.

Order of offices.

Section 96. (1) The order of offices on the ballot in the first column designated "STATE AND NATIONAL," shall be as follows:

(a) If the election is in a year in which a president of the United States is to be elected, in spaces separated from the balance of the party tickets by a heavy black line, shall be the names and spaces for voting for candidates for president and vice-president. The names of candidates for president and vice-president for each political party shall be grouped together.

(b) United States senator;

(c) United States representative;

(d) governor;

(e) lieutenant governor;

(f) secretary of state;

(g) attorney general;

(h) state treasurer;

(i) state auditor;

(j) railroad and public service commissioners;

(k) state superintendent of public instruction;

(l) clerk of the supreme court;

(m) chief justice of the supreme court;

(n) associate justices of the supreme court;

(o) district court judges;

(p) state senators, members of the house of representatives.

If any offices are not to be elected, they shall not be designated but the order of offices to be filled shall maintain their relative positions.

(2) In the column designated, "COUNTY AND TOWNSHIP," the following order of placement shall be observed:

(a) clerk of the district court;

(b) county commissioner;

(c) county clerk and recorder;

(d) sheriff;

(e) county attorney;

(f) county auditor;

(g) other offices in the order designated by the registrar.

(3) In the third column constitutional amendments shall be followed by referendum and initiative measures.

Blank spaces for each office.

Section 97. (1) Below the names of candidates for each office there must be enough blank spaces to contain as many written names of candidates as there are persons to be elected.

(2) There must be a margin on each side of at least one-half (½) inch in width, and a reasonable space between the names, so that the voter may clearly indicate the candidate for whom he wishes to cast his ballot.

Ballot stubs.

Section 98. (1) The ballot shall be printed on the same leaf with a stub, and separated by a perforated stub.

(2) The stub shall extend the entire width of the ballot, and have instructions printed on it.

(3) Upon the face of the stub shall be printed, in type called brevier capitals, the following:

(a) "This ballot should be marked with an 'X' in the square before the names of each person or candidate for whom the elector intends to vote. The elector may write in blank spaces, or paste over another name, the name of a person for whom he wishes to vote, and vote by marking an 'X' in the square before the name."

(b) "If a ballot contains a constitutional amendment, or other question to be submitted to a vote of the people, it is voted on by marking an 'X' in the square before the amendment or question."

(4) On the back of the stub shall be printed or stamped by the registrar or other officer, the consecutive number of the ballot, beginning with number one (1) and increasing in regular numerical order to the total number of ballots required for the precinct.

Sufficient ballots.

Section 99. (1) The registrar must provide each election precinct with sufficient ballots for the electors registered plus sufficient copies to cover destroyed ballots.

(2) The registrar shall keep a record in his office, showing the exact number of ballots that are delivered to the election judges of each precinct.

(3) In city elections the city clerk shall provide necessary ballots.

Short and long-term offices—order.

Section 100. (1) If there is a short-term and a long-term election for the same office, the long-term office shall precede the short-term.

(2) Above each group of candidates for each office shall be printed the words designating the particular office in boldface capital letters and directly underneath the words, "VOTE FOR," followed by the number to be elected to such office.

(3) The ballot shall be in a form prescribed by the secretary of state.

Instructions.

Section 101. (1) The registrar shall print on cards instructions to electors on how to vote.

(2) He shall furnish six (6) cards to the election judges in each precinct and one (1) additional card for each fifty (50) registered electors or fractional part of fifty (50) at the same time ballots are furnished.

(3) The election judges shall post at least one (1) card in each compartment provided for the preparation of ballots, and not less than three (3) of the cards elsewhere about the polling place.

(4) The cards shall contain instructions in bold large type:

(a) on how to obtain ballots for voting;

(b) on how to prepare ballots for deposit in the ballot-box;

(c) on how to obtain a new ballot in place of one spoiled by accident;

(d) a copy of Sections 94-1407, 94-1411, 94-1412, 94-1413, 94-1414, and 94-1415, R.C.M. 1947.

(5) Official ballots provided for in chapter 6 of this act shall be posted in each booth or compartment and in three (3) conspicuous places about the polling place.

Polling places.

Section 102. Before the polls are opened or closed that fact must be proclaimed at the place of election.

Delivery of ballots to electors.

Section 103. (1) The election judges must designate two (2) of their number to deliver ballots to electors.

(2) Before delivery, the election judges shall stamp the words "official ballot" on the back and near the top of the ballot. They shall also stamp other words required by Section 86 of this act.

(3) The election clerks shall enter on the poll lists the name of the elector and the number of the stub attached to the ballot given him.

(4) Each elector shall receive one (1) ballot from the election judges.

Voting booths.

Section 104. (1) All officers who designate polling places shall:

(a) provide in each polling place a sufficient number of booths. The officers must furnish each booth with a door or curtain to screen the voter from observation;

(b) furnish the booths adequately to enable the elector to prepare his ballot;

(c) furnish at least one (1) booth for every fifty (50) electors registered in the precinct.

(2) No more than one (1) person may occupy a booth at one (1) time, and no person may occupy a booth longer than is reasonably necessary to prepare his ballot, after which the election judges may eject him.

Electioneering prohibited on election day.

Section 105. (1) An election officer shall not do any electioneering on election day.

(2) A person shall not do any electioneering on election day, within any polling place, in any building in which an election is being held, or within two hundred (200) feet of the building where the polling place is located.

(3) A person shall not obstruct the entries to a polling place.

(4) An election officer, sheriff, constable, or other peace officer may clear the passageway, prevent any obstruction, and arrest any person obstructing the passageway to a polling place.

(5) A person shall not remove a ballot from the polling place before the closing of the polls.

(6) A person shall not show the contents of his ballot to any other person after it is marked.

(7) A person shall not solicit the elector to show the contents of his ballot; nor shall any person, except the election judge, receive from any elector a ballot prepared for voting.

(8) An elector shall not receive a ballot from any other person than one of the election judges, nor shall any person other than an election judge deliver a ballot to an elector.

(9) An elector shall not vote any ballot except one received from the election judges.

(10) An elector shall not place any mark upon his ballot by which it may be identified as the one voted by him.

(11) An elector who does not vote a ballot delivered to him shall, before leaving the polling place, return the ballot to the election judges.

Preparation of ballot by voter.

Section 106. (1) On receipt of his ballot, the elector must immediately retire to one of the booths and prepare his ballot.

(2) He shall prepare his ballot by marking an "X" in the square before the name of the person or persons for whom he intends to vote.

(3) If the ballot contains a constitutional amendment, or other question to be submitted to the vote of the people, he shall mark an "X" in the applicable square indicating his vote either for or against the amendment or question.

(4) The elector may write in the blank spaces, or paste over any other name, the name of any person for whom he wishes to vote, and vote for that person by marking an "X" before the name.

(5) After preparing his ballot the elector must fold it so the face of the ballot will be concealed and the endorsements may be seen, and hand it to the election judges who shall announce the name of the elector and the printed or stamped number on the stub in a loud tone of voice. The judge must announce the voter's name and record the name in the pollbook. If the voting is in a city, the voter's residence shall also be announced and recorded in the pollbook.

(6) If the elector is entitled to vote, and if the printed or stamped number is the same as that entered on the pollbooks as the number on the stub, the judge shall receive the ballot, and remove the stub in sight of the elector depositing each ballot in the ballot box and each stub in a box for detached ballot stubs.

(7) Any elector who spoils his ballot may, on returning the spoiled ballot, receive another in place of it.

Only ballots in box.

Section 107. No person, except an election judge shall put a ballot, any paper resembling a ballot, or any thing other than a ballot in a ballot box. A person violating this section is guilty of a misdemeanor. An election judge who knowingly permits a violation of this act is guilty of a felony.

Placement of ballot in box.

Section 108. If the name of an elector appears in the official register of the precinct, or if the person offering to vote produces a proper registry certificate and his vote is not rejected upon a challenge, the election judge must immediately and publicly in the presence of all the judges, place the ballot in the ballot box without opening or examining it.

Aiding electors.

Section 109. (1) The election judges shall aid an elector, who because of physical disability or inability to read or write, needs assistance in marking his ballot.

(2) The elector shall be assisted by two (2) judges who represent different parties. The disabled elector may request that a qualified elector he designates also aid him in voting. The election judges must certify on the official register opposite the disabled elector's name that the ballot was marked with their assistance and the name of any other elector designated. Neither the judges nor a person who aided the elector may reveal information regarding the ballot.

(3) The election judges shall require the declaration of disability by the elector under oath. They are authorized to administer the oath.

(4) No elector, other than the one who is unable to vote, may divulge to anyone within the polling place the name of any candidate for whom he intends to vote, or ask or receive the assistance of any person within the polling place in the preparation of his ballot.

(5) Instead of assistance, as provided in subsection (2) of this section, the elector may request the assistance of any qualified elector whom he designates to the judges to aid him in the marking of his ballot, and the judges must certify on the official register opposite the name of such disabled elector that it was so marked with their assistance.

Marking register.

Section 110. (1) The election judges at every general or special election shall, in the precinct register book, mark a cross (X) upon the line opposite to the name of the elector.

(2) Before an elector is permitted to vote, the election judges shall require the elector to sign his name on the place designated in the precinct register.

(3) The election judges shall require an elector not able to sign his name to produce two (2) electors who shall make an affidavit before the election judges, or one (1) of them, in a form prescribed by the secretary of state.

(4) The affidavit shall be filed by the election judges, and returned to the registrar with the returns of the election. One (1) of the judges shall write the elector's name, note the fact of his inability to sign, and the names of the two (2) electors.

(5) If the elector fails or refuses to sign his name, and if unable to write fails to procure two (2) electors who will take the oath required, he shall not be allowed to vote.

(6) Immediately after the canvass of the returns, the election judges shall deliver to the registrar the official register, sealed, with the election returns and pollbook which have been used for the election.

(7) Each precinct shall keep a list of persons voting, and the name of each person who votes shall be entered in it and numbered in the order voting. This list is known as the pollbook.

Challenge of electors.

Section 111. A person offering to vote may be orally challenged by any elector of the county, upon the following grounds:

(1) that he is not the person whose name appears on the register or checklist;

(2) that he has been adjudicated insane or is confined to a state institution.

(3) that he has voted before that day;

(4) that he has been convicted of a felony and has not been pardoned.

Oath upon challenge.

Section 112. (1) If the challenge is on the ground that the person is not the person whose name appears on the official register, the election judges shall administer the following oath: "You do swear (or affirm) that you are the person whose name is entered on the official register and precinct list."

(2) If the challenge is on the ground that the person has voted before that day, the judges shall administer this oath: "You do swear (or affirm) that you have not before voted this day."

(3) If the challenge is on the ground that the person has been convicted of a felony, the judges shall administer the following oath: "You do swear (or affirm) that you have not been convicted of a felony."

Determination of challenge.

Section 113. (1) Challenges on the grounds that the person is not the person whose name appears on the official register or that the person has before voted that day are determined in favor of the person challenged by his taking the oath tendered.

(2) A challenge that the person has been convicted of a felony and not pardoned must be determined in favor of the challenged on his taking the oath tendered, unless the conviction is proved by producing an authenticated copy of the record, or by oral testimony of two (2) witnesses.

(a) If a person convicted of a felony states he was pardoned, he must exhibit his pardon or certified copy to the election judges.

(b) If the pardon is found sufficient, the election judges shall administer this oath: "You do swear (or affirm) that you have not been convicted of any felony other than that for which a pardon is now exhibited."

(c) After taking the oath, the person must be allowed to vote if otherwise qualified, unless a conviction of some other felony is proved.

Refusal of oath.

Section 114. If a person challenged refuses to take the oath tendered, or refuses to be sworn and to answer the questions touching the matter of residence, he shall not be allowed to vote.

Challenges for cause—other.

Section 115. Challenges for causes other than those specified in this chapter must be tried and determined by the election judges at the time of the challenge.

Destruction of ballot.

Section 116. If the challenge is determined against the person offering to vote, the ballot shall, without examination, be destroyed by the election judges in the presence of the person offering the challenge. If determind in his favor, the ballot must be deposited in the ballot box.

List of persons challenged.

Section 117. The election judges shall require each election clerk to keep a list showing:

(1) the names of all persons challenged;

(2) the grounds of each challenge;

(3) the determination of the election judges upon the challenge.

Poll watchers.

Section 118. The election judges shall permit one (1) poll watcher from each political party to station himself close to the poll lists in a location that does not interfere with election procedures. At the time that each elector signs his name, one (1) of the election judges shall pronounce the name loud enough to be heard by the poll watchers. A poll watcher who does not understand the pronunciation has the right to request that the judge repeat the name. Poll watchers shall also be permitted to observe all of the vote counting procedures of the judges and all entries of the results of the elections.

Absentee ballots.

Section 119. A qualified registered elector who will be absent from the county or physically incapacitated and unable to go to the polls on the day of election may vote as provided in Sections 119 through 141 of this act.

Form—school district elections.

Section 120. The state superintendent of public instruction shall prepare the form of application for absentee ballots and other forms necessary for school district elections and may make necessary rules to carry out the purpose of this chapter as it pertains to school districts.

Absentee electors.

Section 121. During a period beginning forty-five (45) days before the day of an election and ending at 12 noon on the day before the election, an elector expecting to be absent from the county in which his voting precinct is situated, an elector in United States service, or an elector who will be unable to go to the polls because of

physical incapacity may apply to the registrar or city clerk for an absentee ballot.

Application.

Section 122. (1) Application for absentee ballots shall be made on a form furnished by the registrar of the county of which the applicant is an elector, the city clerk, or clerk of a first class school district. The form shall be prescribed by the secretary of state except as provided in Section 120 of this act.

(2) The applicant shall subscribe the application and swear to it before an officer authorized to administer oaths. The application is not complete without this affidavit.

(3) Application for an absentee ballot may be made by any elector in the United States service by the federal post card application or by any written request signed by the applicant, addressed to the registrar of the applicant's residence.

Delivery of application.

Section 123. (1) The elector shall forward the application by mail or deliver it in person to the registrar.

(2) The registrar shall compare the signature on the application with the applicant's signature on the registration card. If convinced the person making the application is the same as the one whose name appears on the registration card, he shall deliver the ballot.

Official ballots.

Section 124. (1) Either upon receipt of the application or immediately after the official ballot for the precinct of the applicant's residence has been printed, the registrar, city clerk, or clerk of a first class school district shall send by mail, postage prepaid, whatever official ballots are necessary.

(2) The proper officer shall enclose an envelope with the ballots which has written on the front the name, title, and post office address of the officer sending it, and upon the other side a printed affidavit in a form prescribed by the secretary of state.

(3) Both the envelope in which the ballot is mailed to an elector in the United States service and the return envelope shall have printed across the face two parallel horizontal red bars, each one-quarter inch wide, extending from one side of the envelope to the other, with an inter-

vening space of one-quarter (¼) inch, with the words "Official Election Ballot Material — via Air Mail," between the bars. In the upper right-hand corner shall be printed "Free of U.S. Postage." In the upper left-hand corner shall be blanks sufficient for the recipient to place his return address. All printing on the face of the envelope shall be in red.

(4) The return address shall be self-addressed to the registrar or city clerk.

(5) Instructions for voting shall be enclosed with the ballots for electors in the United States service.

idavit.

Section 125. (1) The elector shall complete the affidavit before an officer authorized by law at the place of execution to administer oaths.

(2) The elector shall mark each ballot in the presence of the officer only, in a manner so the officer cannot see the vote.

(3) The ballot shall be folded by the elector to conceal the vote in the presence of the officer and the elector shall, in the officer's presence, place it in the envelope and seal it.

(4) The officer shall sign at the end of the certificate and affidavit.

(5) The elector shall mail the envelope, postage prepaid, or deliver it to the registrar, city clerk, or clerk of a first class school district.

ceipt of velopes.

Section 126. (1) Upon receipt of the envelope, the registrar, city clerk, or clerk of a first class school district shall immediately enclose it in a larger envelope, together with the elector's application and seal it.

(2) The registrar, city clerk, or clerk of a first class school district shall safely keep it in his office until delivered or mailed by him.

ceipt of sentee ballots.

Section 127. (1) If the absentee ballot is received prior to delivery of the official ballots to the election judges, the registrar or clerk shall deliver the larger envelope to the judges at the same time the ballots are delivered.

(2) If the absentee ballots are received after the ballots are delivered to the election judges, the registrar or

clerk shall immediately deliver the larger envelopes by mail postage prepaid to the judges.

(3) If absentee ballots are received by the registrar or clerk for which application was not received prior to 12 noon on the day preceding an election, the clerk shall endorse upon the voter's envelope the date and exact time of receipt and the words "To be rejected." Absentee ballots so endorsed shall be delivered to the election judges of the precinct and shall be rejected.

(4) If an elector votes absentee ballot and dies between the time of balloting and election day, his ballot will not count.

Numbering of ballots.

Section 128. (1) The absentee ballots delivered shall be regular official ballots beginning with ballot number one (1) and following consecutively, according to the number of applications for absentee ballots.

(2) The registrar, city clerk, or school district clerk shall keep a record of all absentee ballots delivered, as well as of ballots marked before him.

(3) The registrar, city clerk, or school district clerk shall deliver to the election judges to whom the ballots are delivered a certificate stating the number of absentee ballots delivered as well as those marked before him, and the names of the voters to whom such ballots are delivered, or by whom they have been marked if marked before him.

Notation of pollbooks.

Section 129. (1) The election judges, at the opening of the polls, shall note on the pollbooks opposite the numbers corresponding to the number of absentee ballots issued the fact that the ballots were issued and reserve the numbers for the absent or physically incapacitated voters. The notation may be made by writing the words "absent or physically incapacitated voters" opposite the numbers.

(2) The election judges shall insert only the names of the elector entitled to each particular number according to the certificate of the registrar or city clerk and the number of his ballot.

(3) Any absentee ballots which have been rejected shall be placed with the voter's application and the absent or physically incapacitated voter's envelope furnished by the registrar or city clerk.

(a) This envelope shall be sealed and endorsed by the words, "rejected absentee ballots," numbered ....., and shall put on it the number of the absentee ballots given according to the registrar's or city clerk's certificates.

(b) There shall be a separate enclosing envelope for the absentee ballots rejected, and the envelopes shall be placed in an envelope together with other ballots, and shall not be opened without a court order.

Voting before election day.

Section 130. (1) An elector who is present in his county after the official ballots of his county or school district have been printed who has reason to believe that he will be absent from the county or school district or physically incapacitated on election day, may vote before election day before the registrar, city clerk, or school district clerk ,or some officer authorized to administer oaths and having the official seal.

(2) The provisions of this chapter apply to such voting.

(3) If the ballot is marked before the registrar, city clerk, or school district clerk, he shall deal with it in the same manner as if it had come by mail.

Counting absentee ballots.

Section 131. (1) While the polls are open on election day, the election judges shall first open the outer envelope only, and compare the signature of the voter on the application and on the affidavit.

(2) If the election judges find that the signatures correspond, that the affidavit is sufficient, and that the absentee elector is qualified and has not yet voted, they shall open the absentee voter's envelope and take out the ballot or ballots and, without unfolding it or permitting it to be examined, ascertain whether the stub is still attached and whether the number corresponds to the number in the certificate of the registrar or city clerk.

(3) If so, they shall endorse it the same way that other ballots are endorsed, detach the stub, deposit the ballots in the proper ballot boxes, and make entries in their election records to show the elector has voted.

(4) If the affidavit is found defective, the numbers do not correspond, or the voter is unqualified, the election judges, without opening the absentee ballot, shall

mark across the face of it "rejected as defective" or "rejected as not an elector."

(5) The absentee ballot envelope, when it has been voted or rejected, shall be deposited in the ballot box containing the general or party ballots, and shall be retained and preserved in the manner provided for official ballots.

(6) If, upon opening the absentee ballot envelope, it is found that the stub of any ballot has been detached, or that the number does not correspond to the number on the certificate of the registrar or clerk, the ballot shall be rejected. It shall be marked on back as "rejected for .....," filling the blank with the reason. This statement shall be dated and signed by a majority of the election judges.

(7) The rejected ballots, together with the absentee ballot envelope bearing the application shall be enclosed in an envelope, sealed, and the judges shall write on the envelope, "rejected ballot of absentee voter" (writing in the elector's name). "The rejected ballot(s) is (are) ....."

(8) The election judges shall designate the rejected ballot as "general ballot," if it is a ballot for candidates that are rejected.

(9) If the rejected ballot is on a question submitted to the vote of the electors, the judges shall designate it as ballot question No. ..... in the certificate on the envelope.

(10) A separate enclosing envelope shall be used for each absentee ballot rejected. This envelope shall be placed in the envelope in which the other ballots voted are required to be placed and shall not be opened without a court order.

(11) The registrar or clerk shall provide and deliver to the election judges suitable envelopes for enclosing rejected absentee ballots.

Rejected ballots.

Section 132. If the envelope containing the absentee ballot has been marked "rejected as defective" and deposited in the ballot box, the elector appearing has the same right to vote as if he had not attempted to vote as an absent or physically incapacitated voter. If voting

machines are used, he shall vote by machine as other voters.

Unopened ballots.

Section 133. If an envelope containing an absentee ballot has been deposited unopened in the ballot box, the envelope shall be opened without a court order and the ballot cast.

Precincts having voting machines.

Section 134. (1) In precincts where voting machines are used, the registrar, city clerk, or clerk of a school district shall print and provide ballots in official form for possible absent or physically incapacitated voters, and also pollbooks and ballot boxes required for precincts in which printed ballots are used.

(2) Absentee ballots received in those precincts shall be handled as provided in this chapter.

(3) In making the official canvass, the votes cast by absentee ballot shall be added to the votes cast on the voting machines.

False swearing to affidavit.

Section 135. (1) If a person willfully swears falsely to any affidavit he is guilty of perjury.

(2) If the registrar, clerk, or any election officer:

(a) refuses or neglects to perform any duties prescribed by this act,

(b) makes false statements in his certificate regarding affidavits,

(c) looks at any marks made by the voter upon the ballot,

(d) allows any person other than the voter to be present at the marking of such ballot,

(e) sees any marks made by the voter on the ballot, he is guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars ($500), imprisoned in the county jail for not more than six (6) months, or both.

"Elector in the United States service."

Section 136. "Elector in the United States service" means:

(1) a member of the armed forces in the active service, and his spouse and dependents;

(2) a civilian employee of the United States in all categories serving outside the territorial limits of the several states of the United States or in the District of Columbia and his spouse and dependents when residing or accompanying him;

(3) a member of a religious group or welfare agency assisting members of the armed forces of the United States who are officially attached to and serving the armed forces, and his spouse and dependents.

Registration.

Section 137. (1) An elector in United States service who is absent from the state is entitled to register by mailing to the registrar a federal post card application filled out and signed under oath.

(2) The form of the federal post card application, which may be used both as an application for registration and for a ballot, shall be prescribed by the secretary of state.

Oath.

Section 138. (1) Any oath required for electors in the United States service to register, request a ballot, or vote, may be administered and attested, within or without the United States, by any commissioned officer in active service, or any civilian official empowered by state or federal law to administer oaths.

(2) No official seal is required to be affixed to the oath and neither the elector nor the certifying officer need disclose his whereabouts at the time of taking the oath except to the extent required by the federal post card application.

Federal post card application.

Section 139. (1) Upon receipt by the registrar of a federal post card application properly filled out and signed under oath, the registrar shall classify the application according to the precinct in which the elector resides and arrange the cards in each precinct in alphabetical order.

(2) The registrar shall, upon receipt of any federal post card application, immediately enter upon the official register of the county in the proper precinct the full information given by the elector.

(3) If an elector in the United States service has not already requested an absentee ballot, the registrar shall,

immediately upon entry in the official registry of the name of the elector send to him by the fastest mail service available a notice that he has been registered and informing him that in order to secure a ballot he must mail at any time within forty-five (45) days preceding the election another federal post card application to his registrar or city clerk.

Registration by card.

Section 140. (1) An elector who is unable to make personal application for registration by reason of being absent from the county, may register to vote prior to the close of registration before any election, by appearing, executing and verifying under oath, before a notary public or other officer empowered to administer oaths, at any place within the United States, a registration card as provided in sections 119 through 141 of this act.

(2) He must return the card in sufficient time to reach the registrar before the close of registration.

(3) The elector's name may not be entered in the official register until at least two (2) registered electors of the county in which the elector desiring to be registered has his place of residence as stated in his application for registration, appear before the registrar and make affidavits in writing, stating that they are personally acquainted with the applicant, are familiar with and know his signature, and have seen him write and that the signature subscribed to the application or registration is the signature of the elector.

Furnishing of registration cards.

Section 141. (1) The registrar of the county of the elector's legal residence shall furnish to any elector applying, whether application be made by mail, telegram or telephone, a registration card.

(2) The card shall be sent postage prepaid by the registrar to the address furnished by the elector at the time of making his application.

Examination of machines by secretary of state.

Section 142. (1) Before any voting machine can be used, the secretary of state shall:

(a) examine the machine to determine if it complies with the requirements of sections 142 through 163 of this act.

(b) within thirty (30) days after examining a machine, file a report in his office on each machine examined;

(c) within five (5) days after filing the report, transmit to the commissioners, city council, or other board having control of elections in each county or city a list of the machines approved.

(2) A machine shall not be used unless approved by the secretary of state sixty (60) days or more prior to the election.

(3) The secretary of state may employ qualified mechanics who are electors to assist him in duties required by this chapter and compensate them.

(4) The person or company submitting a machine for examination before the filing of the report shall pay the compensation and expenses of mechanics connected with the examination to the secretary of state for deposit in the state general fund.

Criteria for machines.

Section 143. (1) A machine or machine system may not be approved unless:

(a) an elector can vote in secrecy as he is entitled to vote by law;

(b) an elector is prevented from voting for any candidate or upon any question more than once and is also prevented from voting for any person or on any proposition, if he is not entitled to vote;

(c) an elector can vote a split ticket if he desires;

(d) every vote cast is registered and recorded.

(2) The candidates for president and vice-president shall appear on the machine ballot. Presidential electors shall not appear on the machine.

(3) The machine or machine system must be constructed so that it cannot be tampered with for a fraudulent purpose and must also be constructed so that during the progress of the voting no person can see or know the number of votes registered for any candidate or on any proposition.

Providing voting machines.

Section 144. (1) Commissioners and councils may provide approved voting machines as practicable.

(2) Not later than September 10, prior to a general election, the commissioners or council of a city may unite two (2) or more precincts to use a voting machine. Notice of the consolidation shall be given as provided by law for the change of election districts.

(3) Funds for voting machines may be provided by interest-bearing bonds, certificates of indebtedness, or other obligations. The term of the bonds, certificates, or other obligations may not exceed ten (10) years and they shall not be issued or sold at less than par.

Setting voting machines.

Section 145. (1) The registrar or city clerk shall put the proper ballots upon each voting machine corresponding with the sample ballots. The registrars or city clerks shall also:

(a) set, adjust, and put the machines in order;

(b) deliver the machines to the precincts together with necessary furniture and appliances;

(c) place a shield painted black and marked "not in use" over the keys or levers not in use on the voting machine.

(2) In primary elections a separate row or column shall be assigned to each political party and at least one (1) row shall separate the rows assigned to the two (2) major political parties. This row shall be used for the nonpartisan judicial ballot.

(3) In general elections the ballot shall be arranged and the names of the candidates rotated to conform as nearly as possible to the requirements for paper ballots.

(4) Candidates of the two (2) major parties shall be rotated between the first two (2) horizontal rows or vertical columns, and candidates of minor parties and independent candidates shall be rotated between succeeding rows or columns.

(5) The party designation of each candidate shall appear below his name in type as large as machine design will allow.

(6) The judicial ballot shall appear in the first two (2) horizontal or vertical rows or columns as prescribed by section 96 of this act.

(7) The election judges shall compare the ballots on the machine with sample ballots, insure that all counters are set at zero and the machine is in order. They shall not thereafter permit the machine to be operated or moved except by electors voting. They shall also see that arrangements are made for voting write-in ballots on the machine, if the machine is so arranged.

Write-in ballots.

Section 146. (1) If a voting machine allows registry or recording of votes for candidates whose names are not on the official ballot, these ballots are write-in ballots.

(2) A person whose name appears on a ballot shall not receive votes for the same office on a device for casting a write-in ballot.

Placement of voting machines.

Section 147. (1) The exterior of the voting machines and every part of the polling place shall be in plain view of the election judges.

(a) The machines shall be placed so that other persons on the premises cannot see how the voter casts his vote.

(b) The election judges shall not permit any person to remain in any position that would permit him or them to see how the voter votes or has voted.

(c) A voter shall not remain within the voting machine booth or compartment longer than is reasonably necessary to vote. If he refuses to leave, the election judges shall remove him.

(2) The election board of a precinct in which a voting machine is used consists of three (3) election judges and any special board of election judges appointed to count absentee ballots. If more than one (1) machine is used, one (1) additional election judge shall be appointed for each additional machine.

Instruction of judges.

Section 148. (1) Before each election, the registrar shall instruct all election judges in the use of the machine and their duties. He shall give to each election judge that has received instruction, and is fully qualified to conduct the election with the machine, a certificate to that effect.

(2) The registrar shall call meetings of the election judges as necessary for instruction. Election judges shall

attend meetings as necessary to receive the proper instructions.

(3) An election judge shall not serve if voting machines are used unless he has received instruction, is fully qualified to perform duties in connection with the machine, and has received a certificate to that effect from the custodian. However, this shall not prevent an emergency appointment of an election judge.

Voting machine publication.

Section 149. Not more than ten (10) nor less than three (3) days before an election at which voting machines are used, the registrar or city clerk shall publish in a newspaper of general circulation in the county:

(1) a diagram showing the voting machine with official ballot labels;

(2) a statement of the locations where voting machines are on public exhibition;

(3) illustrated instructions on how to vote.

Exhibition of voting machines.

Section 150. A voting machine shall be on exhibition in the office of the registrar or city clerk where voting machines are used. The registrar or city clerk shall demonstrate the voting machine to any inquiring voter.

Samples of printed materials.

Section 151. (1) Not later than forty (40) days before an election, the secretary of state shall prepare samples of the printed matter and supplies named in this section and furnish one of each to the election officials where machines are used. The samples shall meet the requirements of the election and the construction of the machine used.

(2) The registrar or city clerk shall provide supplies for each machine including:

(a) written instructions for the election judges on testing and preparing the machines;

(b) a certificate for the election judges to certify that they have tested and prepared the machine;

(c) a certificate for the person preparing the machine to certify that the machine has been examined and is properly prepared for the election;

(d) a certificate for party representatives to verify

that they have witnessed the testing and preparation of the machines;

(e) a certificate for the deliverer of the machine to certify that he has delivered the machines to the polling places in good order;

(f) a card stating the penalty for tampering with or injuring a voting machine;

(g) two (2) seals for sealing the voting machine;

(h) one (1) envelope with a detachable delivery receipt in which the keys to the voting machine can be sealed and delivered to the election officials having printed on it the designation and location of the election district, the number of the machine, the number on the protective counter after the machine has been prepared for the election, and the number of the seal;

(i) one (1) envelope in which keys to the voting machine can be returned after the election;

(j) two (2) statements of canvass for election officers to report the canvass of votes and other necessary information relating to the election;

(k) three (3) complete sets of ballot labels in a form prescribed by the secretary of state and two (2) diagrams of the face of the machine with the ballot labels on the machine, each having proper voter instructions;

(l) six (6) instructions to election judges and six (6) notices of the instruction meeting;

(m) six (6) certificates that election judges have attended the instruction meeting, received instruction, and are qualified to conduct the machine election.

Registry lists.

Section 152. If voting machines are used, the registry lists shall contain a column to enter the number of each ballot as indicated by the number on the machine counter. Books or blanks for making poll lists shall not be provided.

Disabled voters.

Section 153. A voter who declares he is unable to vote because he cannot read or write, is blind, or physically disabled shall be assisted as provided in Section 109 of this act.

(2) A person who deceives an elector voting under this section shall be punished as provided in Section 94-1407, R.C.M. 1947.

Locking of machines at close of polls.

Section 154. When the polls close, the election judges shall immediately lock the machine or remove the recording device and open the registering or recording compartments in the presence of any person desiring to attend. They shall ascertain the number of votes cast for each candidate, canvass, record, announce, and return the votes as provided by law.

Closing—view of machine.

Section 155. (1) After the count is ascertained, the election judges shall place the machine in full view of the public for one (1) hour so that any person may view the number of votes cast.

(2) Immediately after the hour has passed, the election judges shall seal and lock the machine. Unless used in a city primary election or ordered opened earlier by a court or the county recount board, the machine shall remain sealed and locked for twenty (20) days.

(3) If a machine has been used in a city primary election, it shall remain locked and sealed for at least five (5) days, unless opened by court order.

Write-in ballots.

Section 156. (1) The election judges shall return write-in ballots in a sealed package endorsed "write-in ballots." The election judges shall indicate the precinct and county and file the package with the registrar or city clerk. Each package shall be preserved for six (6) months after the election and may be opened only upon order of a court or the county recount board. At the end of six (6) months, the package shall be destroyed by the registrar or city clerk unless a court orders otherwise.

(2) Tally sheets taken from the machine, if any, shall be returned in the same manner.

Return sheets.

Section 157. Officers who furnish tally sheets shall also furnish return blanks and certificates to the election officers. The return sheets shall:

(1) have each candidate's name designated by the same reference character that the name bears on the ballot labels and counters and allow for writing in a vote for the candidate in figures, words, or both;

(2) provide for the return of the vote on questions;

(3) have a blank for indicating the precinct, ward, number and make of machine used, and other necessary information;

(4) have a certificate to be executed before the polls open by the election judges stating that all counters except the protective counter, if any, and except as otherwise noted, stood at "000" at the beginning of the election, that all counters were examined before the election, that ballot labels were correctly placed on the machine and corresponded to the sample ballot, and other statements as the particular machine may require;

(5) have a second certificate stating the manner of closing the polls and verifying the returns; that the returns are correct; giving the indication of the public counter, poll list, and protective counter, if any. The certificate shall specify the procedure of canvassing the vote and locking the machine and shall be signed by the election officials. The certificate and attest of the election officers shall appear on each return sheet.

Experimental use of machine.

Section 158. Officials authorized to adopt voting machines, may provide for the experimental use at an election of a machine, approved by the secretary of state, in one (1) or more precincts without a formal adoption or purchase of the machine. The use at an election is valid for all purposes as if the machine had been formally adopted.

Unworkable machine.

Section 159. (1) If a machine becomes unworkable or unfit for use, voting shall proceed on another available machine or as in cases where machines are not used. The registrar shall furnish each voting place with a supply of ballots and other supplies to be used in case of emergency.

(2) Where voting machines are used, an elector may request to vote by paper ballot instead of using the voting machines. The election judges shall provide the elector with a paper ballot when requested. Paper ballots shall be cast and counted by the election judges in the manner provided by law.

Machine lockout—ballots.

Section 160. In precincts where voting machines are used and the machines do not allow proper lockout, sep-

arate paper ballots shall be issued for money issues which do not involve the question of incurring of a state indebtedness, issuance of state bonds or debentures other than for refunding, or the levy of a tax for state purposes.

Violation—penalty.

Section 161. Any person who tampers, disarranges, defaces, injures, or impairs a voting machine in any way, or who mutilates, injures, or destroys any ballot or any appliance used in connection with a voting machine shall be imprisoned in the state prison for a period of not more than ten (10) years, be fined not more than one thousand dollars ($1,000), or both.

Same.

Section 162. A person who purposely causes the vote on a machine to be incorrectly taken down as to the candidate or proposition voted on; who knowingly causes a false statement, certificate, or return of any kind to be signed or who knowingly consents to such things being done, shall be imprisoned in the state prison not more than (10) years, be fined not more than one thousand dollars ($1,000), or both.

Same.

Section 163. All laws applicable to elections where voting is not done by machine, and all penalties prescribed for violations of those laws, apply to elections and precincts where voting machines are used if they are not in conflict with the provisions of Sections 142 through 162 of this act.

Electronic voting systems.

Section 164. The purpose of Sections 165 through 170 of this act is to authorize the use of electronic voting systems in which the voter records his votes by means of marking or punching a ballot or one or more ballot cards, which are so designed that votes may be counted by data processing machines at one or more counting places.

Section 165. As used in Sections 166 through 170 of this act, unless otherwise specified:

"Automatic tabulating equipment."

(1) "Automatic tabulating equipment" includes apparatus necessary to automatically examine and count votes as designated on ballots and data processing machines which can be used for counting ballots and tabulating results.

"Ballot card."

(2) "Ballot card" means a ballot which is voted by the process of punching.

"Ballot labels."

(3) "Ballot labels" means the cards, paper, booklet, pages or other materials containing the names of offices and candidates and statements of measures to be voted on.

"Ballot."

(4) "Ballot" may include ballot cards, ballot labels and paper ballots.

"Counting location."

(5) "Counting location" means a location selected by the registrar or city clerk for the automatic processing or counting, or both, of ballots which may be in the same county or in another county.

"Electronic voting system."

(6) "Electronic voting system" means a system of casting votes by use of marking devices and tabulating ballots employing automatic tabulating equipment or data processing equipment.

"Marking device."

(7) "Marking device" means either an apparatus in which ballots or ballot cards are inserted and used in connection with a punch apparatus for the piercing of ballots by the voter or any approved device for marking a paper ballot with ink or other substance which will enable the ballot to be tabulated by means of automatic tabulating equipment.

Criteria for electronic voting systems.

Section 166. (1) Electronic voting systems may be used in elections, after approval as provided by law, provided that such systems enable the voter to cast a vote in secrecy for all offices and all measures on which he is entitled to vote, and that the automatic tabulating equipment may be set to reject all votes for any office or measure when the number of votes therefor exceeds the number which the voter is entitled to cast, or when the voter is not by law entitled to cast a vote for the office or measure.

(2) Electronic voting systems may be used at primary elections provided the voter can secretly select the party for which he wishes to vote, and the automatic tabulating equipment will count only votes for the candidates of one party, and will reject all votes for an office when the number of votes therefore exceeds the number which the voter is entitled to cast, and will reject all votes of a voter cast for candidates of more than one party.

(3) So far as applicable, the procedure provided for voting paper ballots shall apply.

(4) The governing body of any county or city may, after approval as provided by law, adopt, experiment with, or abandon any electronic voting system herein authorized and approved for use in the state, and may use such system in all or a part of the precincts within its boundaries, or in combination with paper ballots. It may enlarge, consolidate or alter the boundaries of the precincts where an electronic voting system is to be used.

(5) In precincts where an electronic voting system is used, an elector may request a paper ballot to cast his vote and the election judges shall supply the elector with the paper ballot when so requested. These ballots will be cast and counted by the election judges in the manner provided by law.

Voting booths and ballots.

Section 167. (1) In precincts where an electronic voting system is used, a sufficient number of voting booths shall be provided for the use of such systems and the booths shall be arranged in the same manner as provided for use with paper ballots.

(2) The officials charged with the duty of providing ballots, ballot cards or ballot labels for any polling place shall provide therefor sample ballots, ballot cards or ballot labels which shall be exact copies of the official ballots which are caused to be printed by them; said sample ballots shall be arranged in the form of a diagram showing the front of the marking device as it will appear after the ballots are arranged therein for voting on election day. Such sample ballots shall be posted by the election judges near the entrance of the voting booths and shall be there open to public inspection during the whole of election day.

(3) The ballot information, whether placed on the ballot or on the marking device, shall, as far as practicable, be in the order of arrangement provided for paper ballots except that such information may be in vertical or horizontal rows, or on a number of separate pages. Ballots for all questions must be provided in the same manner and must be arranged on or in the marking device in the places provided for such purpose. Any voter who spoils his ballot or ballot card or makes an error may return it to the election board and secure another.

(4) A separate write-in ballot, which may be in the

form of a paper ballot, card or envelope in which the elector places his ballot card after voting shall be provided where necessary to permit electors to write in the names of persons whose names are not on the ballot.

(5) The registrar or city clerk shall cause the marking devices to be put in order, set, adjusted and made ready for voting when delivered to the election precincts. Before the opening of the polls the election judges shall compare the ballots used in the marking device with the sample ballots furnished, and see that the names, numbers and letters thereon agree, and shall certify thereto on forms provided for this purpose. The certification shall be filed with the election returns.

(6) Within five (5) days prior to the election day, the registrar or city clerk shall have the automatic tabulating equipment tested to ascertain that the equipment will correctly count the votes cast for all offices and on all measures. Public notice of the time and place of the test shall be given at least forty-eight (48) hours prior thereto by publication once in one or more daily or weekly newspapers published in the county, city, or town using such equipment if a newspaper is published therein, otherwise in a newspaper of general circulation therein. The test shall be open to representatives of the political parties, candidates, the press and the public. The test shall be conducted by processing a pre-audited group of ballots so punched or marked as to record a predetermined number of valid votes for each candidate and on each measure, and shall include for each office one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject such votes. If any error is detected the cause therefor shall be ascertained and corrected and an errorless count shall be made before the automatic tabulating equipment is approved. The test shall be repeated immediately before the start of the official count of the ballots, in the same manner as set forth above. After the completion of the count, the programs used and ballots shall be sealed, retained and disposed of as provided for paper ballots.

Securing marking devices at close of polls—ballots.

Section 168. (1) In precincts where an electronic voting system is used, as soon as the polls are closed, the election judges shall secure the marking devices

against further voting. They shall thereafter open the ballot box and count the number of ballots or envelopes containing ballots that have been cast to determine that the number of ballots does not exceed the number of voters shown on the poll or registry lists. If there is an excess, this fact shall be reported in writing to the appropriate election officer in charge with the reasons therefor, if known. The total number of voters shall be entered on the tally sheets. The election judges shall thereupon count the write-in votes and prepare a return of such votes on forms provided for this purpose. If ballot cards are used, all ballots on which write-in votes have been recorded shall be serially numbered, starting with the number one, and the same number shall be placed on the ballot card of the voter. The inspectors or other appropriate precinct election officials shall compare the write-in votes with the votes cast on the ballot card and if the total number of votes for any office exceeds the number allowed by law, a notation to that effect shall be entered on the back of the ballot card and it shall be returned to the counting location in an envelope marked "defective ballots" and such invalid votes shall not be counted. So far as applicable, provisions relating to defective paper ballots shall apply.

(2) The election judges shall place all ballots that have been cast in the container provided for that purpose, which shall be sealed and delivered forthwith by the election judges to the counting location or other designated place, together with the unused, void and defective ballots and returns.

(3) All proceedings at the counting location shall be under the direction of the registrar or city clerk under the observation of at least three election judges designated by the commissioners or city council and shall be open to the public, but no persons except those employed and authorized for the purpose shall touch any ballot, ballot container or return. If any ballot is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, a true duplicate copy shall be made of the damaged ballot in the presence of witnesses and substituted for the damaged ballot. Likewise, a duplicate ballot shall be made of a defective ballot which shall not include the invalid votes. All duplicate

ballots shall be clearly labeled "duplicate," shall bear a serial number which shall be recorded on the damaged or defective ballot and shall be counted in lieu of the damaged or defective ballot.

(4) The return printed by the automatic tabulating equipment, to which has been added the return of write-in and absentee votes, shall constitute the official return of each precinct or election district. Upon completion of the count the returns shall be open to the public.

Rules and regulations—specifications for devices and equipment.

Section 169. Rules and regulations-specifications for devices and equipment. (a) The secretary of state, state auditor and president of the Montana county clerk and recorders association shall constitute a board of election devices, which shall promulgate rules for the administration of this section, and shall approve the marking devices and automatic tabulating equipment used in electronic voting systems.

(b) No marking device or automatic tabulating equipment shall be approved unless it fulfills the following requirements:

(1) It shall permit and require voting in absolute secrecy.

(2) It shall permit each elector to vote at any election for all persons and offices for whom and for which he is lawfully entitled to vote, and no others; to vote for as many persons for an office as he is entitled to vote for; to vote for or against any question upon which he is entitled to vote; and to vote, where applicable, for all candidates of one (1) party or to vote a split ticket as he desires.

(3) It shall permit each elector, at presidential elections, by one (1) punch or mark to vote for the candidates of that party for presidential elector as a group.

(4) It shall comply with all other requirements of the election laws so far as they are applicable.

(5) No electronic voting system presently in use by any county, city or town in Montana shall be disapproved for use in such county, city or town by the board, except upon application by the governing body of said county, city or town.

Laws applicable.

Section 170. All laws of this state applicable to elections where voting is done in another manner than by electronic voting systems and all penalties prescribed for violation of such laws, shall apply to elections and precincts where electronic voting systems are used, in so far as they are not in conflict with the provisions of Sections 164 through 169 of this act.

Canvass of votes.

Section 171. When the polls are closed, the election judges shall immediately canvass the votes. The canvass shall be public and continue without adjournment until completed and the result is publicly declared.

Comparison of pollbooks.

Section 172. (1) The canvass shall begin by a comparison of the pollbooks and the correction of any mistakes until they agree.

(2) The election judges shall take ballots unopened out of the box to determine whether each ballot is single.

(3) They shall count the ballots to insure that the number of ballots corresponds with the number of names on the pollbooks.

(4) A ballot which is not endorsed by the official stamp is void and shall not be counted. A ballot or part of a ballot is void and shall not be counted if the elector's choice cannot be determined. If a part of a ballot is sufficiently plain to determine the elector's intention, the election judges shall count that part.

(5) If two (2) or more ballots are folded together to look like a single ballot, they shall be laid aside until he count is complete. The election judges shall compare the count with the pollbooks and if a majority believe that the ballots folded together were voted by one (1) elector, they must be rejected; otherwise they must be counted.

(6) If the ballots exceed the number of names on the pollbooks they shall be placed in the box, and one (1) of the election judges shall publicly draw from the box and destroy unopened ballots equal to the excess. The election judges shall record in the pollbooks the number of ballots destroyed.

Count of votes.

Section 173. (1) When the ballots and poll lists agree, the election judges shall count and determine the votes cast for each person.

(2) In counting, the ballots shall be opened singly by one (1) of the election judges and the contents read aloud to the other judges.

(3) As the ballots are read, each clerk must write on a tally sheet the name of every person voted for and the office, and keep tallies of the number of votes for each person.

(4) The tally sheets shall be compared and their correctness ascertained, and the clerks, under the supervision of the election judges, shall immediately write in the pollbooks:

(a) the names of all persons who received votes;

(b) the offices for which they received votes;

(c) total votes received by each person as shown by the tally sheets.

(5) A ballot or vote rejected by the election judges shall not be included in the count.

Rejected ballots.

Section 174. A ballot rejected for illegality shall be marked by the election judges, by writing across the face "Rejected on the ground of.....," filling the blank with a brief statement of the reasons for the rejection. The statement shall be dated and signed by a majority of the judges.

Signing of pollbooks.

Section 175. Immediately after the votes are counted and the ballots sealed up, the pollbooks shall be signed and certified to by the election judges and clerks in a form prescribed by the secretary of state.

Delivery of documents to registrar.

Section 176. (1) Before they adjourn, the election judges shall enclose in a strong envelope or package, securely sealed and directed to the registrar:

(a) the precinct registers,

(b) the lists of persons challenged,

(c) both of the pollbooks,

(d) both of the tally sheets.

(2) The election judges shall enclose in a separate package or envelope, securely sealed and directed to the

registrar, all unused ballots with the numbered stubs attached.

(3) The election judges shall enclose in a separate package or envelope, securely sealed and directed to the registrar, all ballots voted including those not counted or allowed, and all detached stubs from ballots voted. This envelope shall be endorsed on the outside "ballots voted."

(4) Each election judge shall write his name across the seal of each of the envelopes or packages. The ballot box shall be returned to the registrar.

(5) The envelopes or packages required by this section shall be delivered to one (1) of the election judges chosen by lot, unless otherwise agreed upon, before they adjourn. The judge shall deliver them to the registrar in person or by registered mail not later than 10 a.m. on the day following the election.

Filing of election records.

Section 177. (1) When the registrar receives the packages or envelopes, he shall file those containing the ballots voted and detached stubs and the unused ballots and keep them unopened for twelve (12) months. After twelve (12) months, if there is no contest begun in a court or no recount, he shall burn the envelopes without opening them or examining their contents.

(2) The registrar shall file the envelopes or packages containing the precinct registers, certificates of registration, pollbooks, tally sheets, and oaths of election officers. He shall keep them unopened until the commissioners meet to canvass the returns. The commissioners shall open the envelopes or packages.

(3) Immediately after the returns are canvassed, the registrar shall file the pollbooks, election records, and the papers delivered to the commissioners.

Contest—destruction of election records.

Section 178. If there is a contest within twelve (12) months, the registrar shall keep the envelopes or packages unopened until the contest is finally determined and then destroy them. If the court has custody of the envelopes or packages as evidence, they are in the custody of the court and the registrar shall not destroy them.

Board of canvassers.

Section 179. (1) The commissioners are ex officio a board of county canvassers and shall meet as the board

of county canvassers at the usual place of meeting of the commissioners within three (3) days after each election, at 8 a.m. to canvass the returns.

(2) If one (1) or more of the commissioners cannot attend the meeting, his place shall be filled by one (1) or more county officers in this order: treasurer, assessor, sheriff, so that the board of county canvassers membership equals membership on the board of commissioners.

(3) The registrar is clerk of the board of county canvassers.

Meeting.

Section 180. (1) If all returns are in at the time of the meeting, the board of county canvassers shall immediately canvass the returns.

(2) If all returns are not received, the board shall postpone the canvass from day to day until all returns are received or until there have been seven (7) postponements.

(3) If the returns from an election precinct have not been received by the registrar within seven (7) days after an election, he shall immediately send a messenger to the election judges. The messenger must obtain the returns from the judges and return them to the registrar.

(4) If it appears to the board that the polls were not open in a precinct, the board shall certify this to the registrar. The registrar shall enter the certification in the minutes and in the statement required by Section 182 of this act.

Canvass—method.

Section 181. (1) The canvass shall be public. It shall proceed by opening the returns and determining the vote for each person and each proposition from each precinct and a declaration of the results.

(2) The returns shall not be rejected if they do not show who administered the oath to the election judges or clerks, failure to complete all the certificates in the pollbooks, or failure of any other act making up the returns that is not essential to determine for whom the votes were cast.

Results.

Section 182. As soon as the results are declared, the clerk of the board shall enter on the records:

(1) votes cast in the county;

(2) names of the persons voted for and the propositions voted upon;

(3) office for which each person was voted for;

(4) votes by precinct for each person and for and against each proposition;

(5) votes by county for each person, and for and against each proposition.

Votes—persons elected—recount.

Section 183. (1) The board shall declare elected the persons having the highest number of votes given for each office to be filled in a single county or subdivision of a county.

(2) If a recount shows that two (2) or more persons received an equal and sufficient number of votes for the office of state senator or state representative, the county recount board shall certify this to the governor.

Certificate of election.

Section 184. (1) The clerk shall immediately deliver to each person elected a certificae of election signed by him and authenticated with the seal of the board.

(2) The certificate shall state that the official bond must be filed within thirty (30) days after notice of election or appointment and that failure to file the bond vacates the office.

(3) This certificate shall not be issued to persons elected district judge.

Abstract of vote.

Section 185. (1) After a general or special election, the clerk shall make an abstract of the vote for members of the legislative assembly, for officers elected in the state at large, and for judicial officers other than justices of the peace.

(2) The clerk shall seal the abstract, endorse it "Election Returns," and immediately send it to the secretary of state by registered mail.

Board of state canvassers.

Section 186. Within twenty (20) days after the election, or sooner if the returns are all received, the state auditor, state treasurer, and attorney general shall meet as a board of state canvassers in the office of the secretary of state and determine the vote. The secretary

of state, who is secretary of the board, shall make out and file in his office a statement of the canvass and transmit a copy to the governor.

Returns to state board.

Section 187. If the returns from all counties have not been received five (5) days before the meeting of the board of state canvassers, the secretary of state shall immediately send a messenger to the registrar of each delinquent county. The registrar shall furnish the messenger with a certified copy of the statement required by Section 182 of this act.

Issuance of commissions.

Section 188. Upon receipt of the statement required by section 186 of this act, the governor shall issue commissions to the persons elected. If the governor has been elected to suceed himself, the secretary of state shall issue the commission.

Defects.

Section 189. No declaration of an election result, commission, or certificate shall be withheld because of a defect or informality in the returns of any election if it can be determined with reasonable certainty the office intended and the person elected.

Recount—procedure.

Section 190. (1) Within five (5) days after the canvass of election returns, an unsuccessful candidate for any public office at a general, special, or city election may apply to the district court of the county where the election was held for an order directing the canvassing body to make a recount of the votes cast in any or all of the precincts.

(2) The application shall specify the grounds for a recount and be verified by the applicant that the matters contained in it are true to the best of the applicant's knowledge, information, and belief.

(3) Within five (5) days after filing of the application, the judge shall hear the application and determine its sufficiency.

(4) If the judge finds there is probable cause to believe that the votes cast for the applicant were not correctly counted, he shall order the board of county canvassers to assemble within five (5) days after the order is issued at a time and place fixed by the order. The board shall meet and recount the ballots as specified in the order.

Recount to cover.

Section 191. The board of canvassers shall recount votes only in those precincts and for those offices specified in the court order.

Criteria for recount.

Section 192. A recount shall be made under any of the following conditions.

(1) If a candidate other than for the office of district judge is defeated by a margin not exceeding one-fourth of one per cent (¼ of 1%) of the total votes cast or by a margin not exceeding ten (10) votes, whichever is greater, he may within five (5) days after the official canvass file with the registrar a verified petition stating he believes a recount will change the result and a recount of the votes for the office or nomination should be had.

(2) If a candidate is defeated for the office of district judge or an office voted on in more than one (1) county by a margin not excedeing one-fourth of one percent (¼ of 1%) of the total votes cast for all candidates for the same position, he may within five (5) days after the official canvass file a petition with the secretary of state as set forth in subsection (1) of this section. The secretary of state shall immediately notify each registrar whose county includes any precincts which voted for the same office by registered mail and a recount shall be conducted in those precincts.

(3) If a question submitted to the vote of the people of the state is decided by a margin not exceeding one-fourth of one percent (¼ of 1%) of the total votes cast for and against the question, a petition as set forth in subsection (1) of this section may be filed with the secretary of state. This petition shall:

(a) be signed by not less than one hundred (100) electors of the state representing at least five (5) counties of the state and be filed within five (5) days after the official canvass;

(b) the secretary of state shall immediately notify each registrar by registered mail of the filing of the petition and a recount shall be conducted in all precincts in each county.

(4) If there is a tie vote, the board making the canvass shall certify the vote to the registrar if the election

took place only in one (1) county and to the secretary of state for other elections. The registrar or secretary of state shall proceed as if a petition for recount had been filed under this act. If a tie exists after the recount, the tie shall be resolved as provided by law.

Incorrect count.

Section 193. If it appears from a verified application that the election judges or clerks failed to comply with the provision of Section 173 of this act, that is sufficient cause for believing that the election judges and clerks did not correctly ascertain the number of votes cast for the applicant.

Disqualification of judge.

Section 194. (1) If the judge of the district court of the county in which the election is held is for any reason disqualified from acting, the judge or a supreme court justice shall order another district judge to hear and determine the application.

(2) The district court shall not lose jurisdiction of the case by failure to hear and determine the application within the prescribed time, but shall retain jurisdiction until the cause is finally determined and the final count is made by the board of county canvassers.

Limited recount.

Section 195. (1) If the application asks for a recount in more than one (1) precinct, but there are not sufficient grounds for a recount in all precincts, the court shall order a recount only in the precincts for which sufficient grounds are stated and shown.

Expense of recount.

Section 196. (1) The court in its order shall determine the probable expense of making the recount and the applicant or applicants asking for the recount shall deposit with the board the amount determined in cash.

(2) If the recount shows that the applicant or applicants have been elected to the office, the deposit of each applicant shall be returned to him.

(3) If the recount shows that an applicant has not been elected and the expense of the recount is greater than the estimated cost, the applicant shall pay the excess, but if the expense is less than the cost the difference shall be refunded to the applicant.

(4) Members of the canvassing board and their clerks shall be compensated for their time spent in canvassing.

Multiple applications for recount.

Section 197. If more than one (1) candidate makes application for a recount, the court may consider the applications together. The court may make separate or joint orders on the applications and apportion the expenses between the applicants.

Method of recounting.

Section 198. The board of canvassers in recounting the ballots shall count the votes cast, at the same time, in the precincts in which a recount is ordered for the several candidates in whose behalf a recount is ordered in the following manner:

(1) The registrar shall produce, unopened, unless it is necessary for the registrar to open the package or envelope to secure election materials which have been sealed in the wrong envelope or package, the sealed package or envelope received from the election judges of the precinct, or precincts, in which a recount is ordered containing all ballots voted in the precinct or precincts;

(2) A member of the board of county canvassers shall open the sealed package or envelope in the presence of the other members, the registrar, and the applicant or applicants seeking the recount;

(3) A member of the board shall then remove the ballots from the package or envelope in the presence of the applicant or applicants seeking the recount and the candidate or candidates who received the highest number of votes by the first canvass;

(4) One (1) of the members of the board, in the presence and view of the candidates and one (1) other board member, shall read each ballot aloud. As the ballots are read, two (2) clerks shall write the votes cast for each person in each precinct at full length, on previously prepared tally sheets showing the names of the respective candidates, the office or offices for which a recount is made, and the number of each election precinct;

(5) At the completion of the recount, the tally sheets shall be compared, their correctness ascertained, and the total number of votes cast for each candidate determined;

(6) If the recount shows the votes for any applicant are more or less than the number shown upon the official returns, the clerk of the board of canvassers shall correct the original returns to state the number of votes ascertained by the recount;

(7) The board of canvassers shall direct the clerk to enter the result of the election as determined by the recount on the board records and the clerk shall make out and deliver a certificate of election which conforms to the result of the recount.

Service of person originally elected.

Section 199. The candidate found to be elected as a result of the original or first canvass shall be served with a copy of the application for recount. He shall be given an opportunity to be heard and shall be permitted to be present and to be represented at any recount ordered.

Ballots after recount.

Section 200. When the recount in a precinct has been finished, the ballots shall again be sealed in the same package or envelope in the presence of the registrar and the members of the board of canvassers and shall be delivered to the registrar for custody.

Second certificate.

Section 201. If the recount shows that the person who received the certificate of election according to Section 184 of this act did not receive the highest number of votes, the registrar shall issue a new certificate to the person receiving the highest number pursuant to the recount and the first certificate is void. The person receiving the second certificate shall be elected to the office.

Total vote cast.

Section 202. When an elector may vote for two (2) or more candidates for the same office, the total vote cast for all candidates for the office is the total vote cast for all candidates divided by the number of candidates officially declared nominated or elected as shown by the official returns.

County recount board.

Section 203. (1) The county recount board shall always consist of three (3) acting members.

(2) The county recount board is the board of county commissioners.

(3) If one (1) or more of the commissioners cannot attend when the board meets, his place shall be filled by a county officer in the following order of appointment: the treasurer, the assessor, the sheriff, the clerk of court.

(4) If a member of the recount board was a candidate for an office or nomination for which votes are to be recounted, he shall be disqualified.

(5) The registrar is clerk of the recount board, and the board may hire additional clerks as needed.

Application for recount.

Section 204. (1) Immediately upon receiving an application for a recount or notice from the secretary of state that an application has been filed with him, the registrar shall notify the members of the county recount board.

(2) The board shall convene at the usual meeting place of the commissioners without undue delay but not later than five (5) days after receiving notice from the registrar.

Representation at recount.

Section 205. (1) Each candidate involved in a recount may appear, personally or by a representative, and shall have full opportunity to witness the opening of all ballot boxes and the count of all ballots.

(2) If the recount is upon a referred or submitted question, one (1) qualified elector favoring each side of the question may be present and represent his side.

(3) The registrar shall produce, unopened, the sealed package or envelope received from the election judges in each election precinct in the county.

(4) The recount shall proceed as provided in section 198 of this act and as expeditiously as possible until completed.

Certification of recount.

Section 206. (1) Immediately after the recount the county recount board shall certify the result.

(2) At least two (2) members of the board shall sign the certificate and it shall be attested to under seal by the registrar.

(3) The certificate shall set forth in substance the proceedings of the board and appearance of any candidates or representatives, and it shall adequately designate each precinct recounted, the vote of each precinct according to the official canvass previously made, nomination, position, or question involved, and the correct vote of each precinct as determined by the recount.

(4) When the certificate relates to a recount for an office, nomination, position, or question voted upon in more than one (1) county or for judge of the district

court, the certificate shall be made in duplicate. One (1) copy shall be transmitted immediately to the secretary of state by registered mail.

(5) If the recount relates to an office, nomination, position, or question voted upon in only one (1) county, or part of a single county, the county recount board shall immediately recanvass the returns as corrected by the certificate showing the result of the recount and make a corrected abstract of the votes.

(a) If the corrected abstract shows no change in the result, no further action shall be taken.

(b) If there is a change in the result, a new certificate of election or nomination shall be issued to each candidate found to be elected or nominated.

Filing certificates.

Section 207. (1) When the secretary of state receives certificates from all county recount boards, he shall file them, and fix a time and place as soon as possible for reconvening the state board of canvassers, and shall notify the members.

(2) The state board of canvassers shall recanvass the official returns on the office, nomination, position or question, as corrected by the certificates and make a new and corrected abstract of the votes cast.

(a) If the corrected abstract shows no change in the results, no further action shall be taken.

(b) If there is a change in the results, a new certificate of election or nomination shall be issued in the same manner as the certificate of election or nomination was previously issued to each candidate elected or nominated.

Tie vote—procedure.

Section 208. If the recount shows a tie vote and it cannot bedetermined who has been nominated or elected, the office or position shall be filled as provided by Sections 209 and 210 of this act.

Same—U. S. representative—judges—legislative assembly.

Section 209. (1) If there is a tie vote for United States representative, the secretary of state shall send a certified statement to the governor showing the votes cast and the governor shall order a special election.

(2) If there is a tie vote for justice of the supreme court, judge of a district court, or member of the legisla-

tive assembly the secretary of state shall send a certified statement to the governor showing the vote cast for each person, and the governor shall appoint an eligible person to hold office.

Same—state offices.

Section 210. (1) If there is a tie vote for governor, lieutenant governor, secretary of state, attorney general, state aduitor, state treasurer, clerk of the supreme court, superintendent of public instruction, or any other state, executive officer, the legislative assembly, at its next regular session, shall elect a person to fill the office by joint ballot of the two (2) houses.

Same—county offices.

(2) If there is a tie vote for clerk of the district court, county attorney, any county officer except county commissioner, or for a township officer, the commissioners shall appoint an eligible person as in case of other vacancies in the office.

(3) If there is a tie vote for commissioner, the senior district judge shall appoint an eligible person to fill the office as in other cases of vacancy.

(4) If there is a tie vote for state officers, the secretary of state shall transmit a certified copy of the statement to the legislative assembly showing the votes cast for the two (2) or more persons having an equal and the highest number of votes.

Expense of recount.

Section 211. The expense of the recount is a county charge. Expenses of the secretary of state and state board of canvassers are a state charge.

Contest of bond election.

Section 212. (1) Any elector qualified to vote in a bond election of a county, city, or of any political subdivision of either may contest a bond election, for any of the following causes:

(a) that the precinct board in conducting the election or in canvassing the returns, made errors sufficient to change the result of the election;

(b) that any official charged with a duty under this act, failed to perform that duty;

(c) that in conducting the election, any official charged with a duty under this act, violated any of the provisions of this act relating to bond elections.

(2) Within five (5) days after the election, the contestant shall file a verified petition with the clerk of the court in the judicial district where the election was held.

Petition—hearing.

Section 213. (1) Within five (5) days after the petition is filed, the district judge shall designate the time and place of hearing.

(2) The clerk shall immediately issue a citation for the defendant to appear at the time and place specified in the order, and shall serve the citation immediately upon the defendant either:

(a) personally, or

(b) if the party cannot be found, by leaving a copy at the house where he last resided.

(3) The court shall meet at the time and place designated to determine the contested election and shall have all the powers necessary to the determination thereof.

(4) The court shall be governed by the rules of law and evidence governing the determination of questions of law and fact, so far as the same may be applicable.

(5) The court shall continue in special session to hear and determine all issues in the contested election. After hearing the proofs and allegations of the parties and within ten (10) days after submission thereof, the court shall file its findings of fact and conclusions of law, and immediately shall pronounce judgment in the premises, either confirming or annulling and setting aside the election. The judgment shall be entered immediately thereafter.

Electors for U. S. president and vice-president.

Section 214. On the Tuesday next after the first Monday of November in the year in which a president of the United States is to be elected there shall be elected as many electors for president and vice president of the United States as are allocated to this state.

Procedure.

Section 215. (1) Each political party shall nominate presidential electors for this state and file with the secretary of state certificates of nomination for these candidates at the time and in the manner and number provided by law.

(2) The secretary of state shall certify to the registrars the names of the candidates for president and vice-

president of the several political parties, which shall be printed on the ballot.

(3) The names of candidates for electors of president and vice-president shall not be printed upon the ballot.

(4) The votes cast for candidates for president and vice-president of each political party shall be counted for the candidates for presidential electors of the political party whose names have been filed with the secretary of state.

Counting votes.

Section 216. (1) The votes for candidates for president and vice-president shall be given, received, returned and canvassed as the votes are given, returned, and canvassed for candidates for congress.

(2) The secretary of state shall prepare three (3) lists of names of electors elected and affix the seal of the state to the lists.

(3) The lists shall be signed by the governor and secretary of state and by the latter delivered to the college of electors at the hour of their meeting.

Meeting of electors.

Section 217. (1) The electors shall meet in Helena at 2 p.m. on the first Monday after the second Wednesday in December following their election.

(2) The electors shall vote by separate ballots for one (1) person for president and one (1) for vice-president of the United States.

Results.

Section 218. (1) The electors shall make lists of the persons voted for as president and vice-president, indicate the number of votes for each, certify, seal, and transmit the lists as prescribed by laws of the United States.

Compensation.

Section 219. Elector shall receive the same pay and mileage allowed members of the legislative assembly. Payments shall be certified by the secretary of state and paid by the state auditor from the state general fund.

Vacancy.

Section 220. If a vacancy occurs, the electors present shall elect a citizen of the state to fill the vacancy.

U. S. senators and representatives.

Section 221. (1) United States senators and representatives shall be elected at the general election preceding commencement of the term to be filled.

(2) If a vacancy occurs for senator, or United States representative, an election to fill the vacancy shall be held at the next general election. If an election is invalid or not held at that time, the election shall be at the second succeeding general election.

(3) Nominations and elections shall be as provided by law for governor.

Vacancy.

Section 222. If a vacancy occurs in the office of United States senator or representative, the governor shall issue a writ of election to fill the vacancy. The governor may make a temporary appointment to fill the vacancy until the election.

Certificate of election.

Section 223. Upon receipt of the statement required by Section 186 of this act, the governor shall send a certificate of election to each person elected.

Eligibility for office—U. S. senator and representative.

Section 224. A person who has not resided in this state at least one (1) year prior to his election or appointment is not eligible for the office of United States senator or representative.

Judicial offices—vacancy.

Section 225. (1) Each vacancy for associate justice of the supreme court is a separate and independent office for election purposes. The chief justice of the supreme court shall assign an individual number to the four (4) associate justices and certify these numbers to the office of the secretary of state not less than one hundred eighty (180) days before a primary nominating election.

(2) Each judicial office in a district which has more than one (1) district judge is a separate and independent office for election purposes.

Same—nomination.

Section 226. Candidates for the supreme court or district court shall be nominated according to primary election laws so far as they are consistent with the provisions of this chapter.

Same—declarations for nomination.

Section 227. (1) Judicial candidates shall file declarations for nomination as required by the primary election laws in a form specified by the secretary of state.

(2) Declarations for nomination as associate justice of the supreme court shall designate the number of the office. A person can make only one (1) designation.

(3) Candidates for nomination as district judge in a district having more than one (1) judge shall specify the number of the office. His candidacy is limited to the number specified.

(4) Declarations shall not indicate political affiliation. The candidate shall not state in his declaration any principles or measures he advocates nor any slogans.

(5) Each person filing a declaration shall remit the fee prescribed by law for the position he seeks. Declarations for justice of the supreme court and district court judge shall be filed with the secretary of state.

Same—entries.

Section 228. (1) On receipt of a declaration, the secretary of state shall make entries in the "Register of Candidates for Nomination" on a page different from entries made for district candidates of political parties.

(2) The secretary of state shall separately arrange, certify, and file the names of judicial candidates, and certify to each registrar the names to be placed on the primary ballot at the same time, and in the same way, that other candidates are certified.

(3) The certificates shall show the names of candidates and number of the judicial office for each. The list shall be separate from lists of candidates appearing under political headings.

Same—ballots.

Section 229. (1) The registrars shall arrange, prepare, and distribute primary ballots for judicial offices designated "Judicial Primary Ballots." They shall be arranged as other primary ballots and be without political designation.

(2) The number of judicial primary ballots and sample ballots furnished shall be the same as other primary ballots.

Judicial primary ballot.

Section 230. (1) The "Judicial Primary Ballot" shall be furnished to electors in the same manner as other primary ballots.

(2) The number of the judicial primary ballot shall correspond to the number of the elector's regular ballot.

(3) Different terms of office for the same position shall be considered separate offices.

Same—counting votes.

Section 231. (1) After closing the polls, the election officers shall separately count and canvass judicial ballots, and record and certify them, showing the number of votes cast for each person.

(2) Judicial ballots, stubs, and unused ballots shall be disposed of in the same manner as other ballots, stubs and unused ballots. Returns shall be made as provided by law.

Same—primary candidates.

Section 232. (1) Candidates for nomination equal to twice the number to be elected at the general election who shall receive the highest number of votes cast at the primary, or if the number of candidates is not more than twice the number to be elected then all candidates, are nominees for the office.

(2) Candidates who received the highest vote in the primary shall have their names printed on the official ballot for the general election.

(3) No candidate shall have his name on the judicial ballot for the general election unless he was a successful candidate at the primary election.

Same—tie vote.

Section 233. (1) In case of a tie vote, the candidates shall appear and cast lots before the secretary of state on the fifth day after the vote is officially canvassed.

(2) If a candidate fails to appear in person or by proxy in writing before 12 noon of the day appointed, the secretary of state shall by lot determine the candidate whose name will be printed on the official ballot.

Same—vacancy.

Section 234. (1) If after the primary a candidate is not able to run for the office for any reason, the vacancy shall be filled by the candidate next in rank in number of votes received in the primary election.

(2) If after the primary and before the general election there is no person able or entitled to the office or there are not enough candidates to fill the offices, the governor shall certify to the secretary of state the names of persons qualified for the office equal to twice the number to be elected. The names of those persons nominated by the governor shall be printed on the official ballot.

(3) Nominations made by the governor are not filed

too late if filed within ten (10) days after the vacancy occurs. If the ballots have already been printed, stickers may be used to place the names on the ballot.

Same—violation and penalty.

Section 235. A political party which endorses a candidate for justice of the supreme court or district court judge, a person who participates in an endorsement by a political party, or a person who acts on behalf of a political party in endorsing a judicial candidate is guilty of a misdemeanor.

State convention for amendment of U. S. constitution.

Section 236. If Congress proposes an amendment to the constitution of the United States to be ratified by state convention, a convention shall be held.

Section 237. (1) The number of convention delegates shall be equal to the number of members in the legislative assembly. Each district shall have delegates equal to the number of members it is entitled to in the legislative assembly.

(2) Delegates shall be elected at the next primary or general election after Congress has proposed the amendment, or at a special election called by the governor.

(3) Except as otherwise provided in Sections 236 through 246 of this act, the election shall be in accordance with the laws for the election of members of the legislative assembly.

Nomination for delegate.

Section 238. (1) Nominations for the office of delegate shall be by petition signed by not less than one hundred (100) voters of the district.

(2) Nominations shall be without political designation but shall be as "in favor of" or "opposed to" ratification of the proposed amendment.

(3) Petitions and acceptances shall be filed not less than thirty (30) days prior to the election.

Results—determination.

Section 239. The results of the election are determined as follows:

(1) The votes cast for each candidate "in favor of" ratification, and the total votes cast for all candidates "in favor of" ratification and the votes cast for each candidate "opposed to" and the total votes cast for all candidates "opposed to" ratification shall be ascertained;

(2) Candidates receiving the highest number of votes equal to the number of delegates to be elected from the side receiving the greater number of votes are elected.

Ballot form.

Section 240. The official ballot form shall be prescribed by the secretary of state.

Meeting of delegates.

Section 241. Delegates shall meet at the state capitol on the first Monday in the month following the election at 10 a.m. and constitute a convention to act upon the proposed amendment.

Quorum.

Section 242. A majority of the total number of delegates constitutes a quorum. The convention may choose a president, secretary, and other necessary officers; make rules governing the procedure of the convention; and shall judge the qualifications and election of its members.

Compensation.

Section 243. Each delegate shall receive mileage and per diem as provided by law for members of the legislative assembly. The secretary and other officers shall receive compensation fixed by the convention.

Certification of results.

Section 244. When the convention has agreed by majority vote of delegates attending the convention, a certificate of the result shall be executed by the president and secretary and transmitted to the secretary of state of the United States.

Qualification of nominees.

Section 245. Persons entitled to petition for nomination and vote at the election are determined by laws on registration.

Regulation of convention by Congress.

Section 246. If Congress prescribes how the convention shall be constituted and held by resolution or statute, sections 236 through 245 of this act are inoperative and the convention shall be constituted and held as Congress directs. All state officers are directed to take action to constitute the convention as authorized by Congress and act as if acting under state statute.

Violation—penalty.

Section 247. Anyone who violates any provision of this act for which no other penalty is specified is guilty of a misdemeanor.

Repealing clause.

Section 248. Sections 23-101 through 23-106, 23-201 through 23-202, 23-301 through 23-311, 23-401 through 23-407, 23-501, 23-501.1, 23-502 through 23-534, 23-601

through 23-604, 23-604.1, 23-604.2, 23-605 through 23-612, 23-701 through 23-713, 23-801 through 23-820, 23-901 through 23-929, 23-931, 23-933 through 23-936, 23-1001, 23-1008 through 23-1009, 23-1101 through 23-1107, 23-1109 through 23-1117, 23-1201 through 23-1228, 23-1301, 23-1302(1), 23-1302(2), 23-1303, 23-1303.1, 23-1304 through 23-1321, 23-1401 through 23-1406, 23-1501 through 23-1503, 23-1601 through 23-1608, 23-1608A, 23-1609 through 23-1618, 23-1701 through 23-1715, 23-1801 through 23-1808, 23-1812 through 23-1819, 23-1901 through 23-1904, 23-2001 through 23-2012, 23-2014, 23-2101 through 23-2111, 23-2201 through 23-2206, 23-2301 through 23-2323, 23-2401 through 23-2411, and 23-2501 through 23-2507, R.C.M. 1947 are repealed.

Approved: March 15, 1969.

CHAPTER NO. 369

An Act Providing for the Amount of the Distributor's Gasoline License Tax; Payment of the Tax by Distributors; Establishing a Refund Procedure; Licensing of Gasoline Distributors; Empowering the State Board of Equalization to Establish Regulations; Providing for Enforcement of the Act by Penalties; and Repealing Sections 84-1801 through 84-1814, 84-1818 through 84-1823, 84-1828, and 84-1829, R.C.M. 1947, Relating to the Gasoline Dealer's License Tax.

Be it enacted by the Legislative Assembly of the State of Montana:

Citation of act.

Section 1. This act may be cited as the "Distributor's Gasoline License Tax Act."

Section 2. **Definitions.** As used in this act, the following definitions shall apply:

"Gasoline."

(1) The term "gasoline" includes all products commonly or commercially known or sold as gasoline, including casinghead gasoline, natural gasoline, aviation gasoline and all flammable liquids, composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating internal combustion engines. The term "gasoline" does not include special fuels as defined in section 84-1831(e).

"Person."

(2) The word "person" means any person, firm, association, joint-stock company, syndicate or corporation.

"Motor vehicle."

(3) The words "motor vehicle" mean all vehicles operated or propelled upon the public highways or streets of this state, in whole or in part by the combustion of gasoline.

"Use."

(4) The word "use" shall include and mean the operation of motor vehicles upon the public roads or highways of the state of Montana, or of any political subdivision thereof.

"Import."

(5) The word "import" shall include and mean to receive into any person's possession or custody first after its arrival and coming to rest at destination within the state of Montana of any gasoline shipped or transported into this state from point of origin without this state, other than in the fuel supply tank of a motor vehicle.

"Distributed"—gasoline.

(6) Gasoline deemed to be "distributed". (a) Gasoline refined, produced, manufactured, or compounded in this state and placed in tanks thereat, or gasoline transferred from a refinery or pipeline terminal in this state and placed in tanks thereat, or gasoline imported in to this state and placed in storage at refineries or pipeline terminals, shall be deemed to be distributed, for the purpose of this Act, at the time the gasoline is withdrawn from such tanks, refinery or terminal storage for sale or use in this state or for the transportation to destinations in this state other than by pipeline to another refinery or pipeline terminal in this state. When withdrawn from such tanks, refinery or terminal, such gasoline may be distributed only by a person who is the holder of a valid distributor's license.

(b) Gasoline imported into this state other than that gasoline placed in storage at refineries or pipeline terminals, shall be deemed to be distributed after it has arrived in and is brought to rest in this state.

"Distributor."

(7) The word "distributor" means (a) any person who engages in the business in this state of producing,